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STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

August 22, 2018 - 9:08 a.m.  
21 S. Fruit Street  
Concord, New Hampshire

{Electronically filed with SEC 9-04-18}

IN RE: SEC DOCKET NO. 2015-04  
Application of Public  
Service of New Hampshire  
d/b/a Eversource  
Energy for Certificate  
of Site and Facility  
(Prehearing Conference)

PRESIDING: Michael J. Iacopino, Esq.  
(Presiding as the Presiding Officer)

- and-

Pamela G. Monroe, SEC Administrator

COURT REPORTER: Cynthia Foster, LCR No. 14

1 APPEARANCES:

2 Reptg. Counsel for the Applicant:  
Barry Needleman, Esq. (McLane Middleton)  
3 Adam Dumville, Esq. (McLane Middleton)  
Elizabeth Maldonado for Eversource Energy

4 Reptg. Counsel for the Public:  
5 Christopher G. Aslin  
Asst. Atty. General  
6 N.H. Department of Justice

7 Reptg. University of New Hampshire and Town of  
Durham:  
8 Douglas L. Patch, Esq. (Orr & Reno)

9 Reptg. Conservation Law Foundation:  
Thomas F. Irwin, Esq.

10 Reptg. Town of Newington:  
11 Susan S. Geiger, Esq. (Orr & Reno)

12 Reptg. the Darius Frink Farm:  
Helen Frink

13 Reptg. Donna Heald:  
14 Marcia Brown, Esq. (NH Brown Law)

15 Reptg. Joyce Crowley Revocable Trust:  
Justin Richardson, Esq.

16 Reptg. Keith Frizzel  
17 Joshua Lanzetta, Esq. (Wadleigh, Starr & Peters)

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	I N D E X	Page
1		
2	Purpose of the Prehearing Conference	
3	and Appearances	4
4	Stipulations or Settlements	7
5	Withdrawals of Any Testimony	13
6	Applicant's Witness Schedule and Order	
7	of Cross-Examination	18
8	Counsel for the Public and Intervenors'	
9	Witnesses	73
10	Exhibits - Timing and Format	98
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 MR. IACOPINO: All right. We're going to  
2 get going. Good morning, everybody. We're here  
3 for a Prehearing Conference in Site Evaluation  
4 Committee Docket number 2015-04, the Application  
5 of Public Service Company of New Hampshire doing  
6 business as Eversource Energy for Certificate of  
7 Site and Facility, otherwise known as the  
8 Seacoast Reliability Project.

9 Today's hearing is a Prehearing Conference.  
10 We are scheduled to begin adjudicative  
11 proceedings next week. The Administrator issued  
12 a notice of this hearing, this Prehearing  
13 Conference, on August 10th, 2018.

14 Now we're going to follow the agenda that  
15 she had set forth in that notice which begins  
16 with explaining the purpose of the hearing.  
17 Most of you, I see very many familiar faces.  
18 Most of you understand what the Prehearing  
19 Conference's purpose is. It's basically for us  
20 to get ready for the adjudicative hearings. By  
21 statute, the Prehearing Conference can include  
22 discussion of offers of settlement,  
23 simplification of issues, any stipulations or  
24 admissions to any issues of fact or proof which

1 may be in dispute, limitations on testimony or  
2 number of witnesses, any changes to the standard  
3 procedures used during administrative and  
4 adjudicative hearings by consent of the parties,  
5 consolidation of examination by witnesses if  
6 possible, and any other matters which aid in  
7 disposition of the proceeding.

8 So basically this is an informal process  
9 for us all to get ready for the hearings that  
10 begin next week. I think probably we should  
11 first just go around the room and have everybody  
12 who's here identify themselves and if you are a  
13 representative of a party in the proceeding,  
14 identify which party you represent, and I'm  
15 going to start with Mr. Needleman at the front  
16 table on my left.

17 MR. NEEDLEMAN: Barry Needleman and Adam  
18 Dumville for McLane Middleton representing the  
19 Applicant, and with us is Beth Maldonado from  
20 Eversource.

21 MR. IACOPINO: And behind you?

22 MS. FRINK: Helen Frink representing the  
23 Darius Frink Farm in Newington.

24 MR. IACOPINO: Thank you. And behind Ms.

1 Frink?

2 MR. LANZETTA: Josh Lanzetta, Wadleigh,  
3 Starr & Peters, representing Keith Frizzell.

4 MR. IACOPINO: Thank you. Sir?

5 MR. FITCH: Matthew Fitch, one of the  
6 Durham Intervenors.

7 ADMINISTRATOR MONROE: If you could just  
8 make sure your microphone is on. It's when the  
9 red light's on. For Ms. Foster, the court  
10 reporter. I appreciate it.

11 MR. IACOPINO: Chris?

12 MR. ASLIN: Chris Aslin acting as Counsel  
13 for the Public.

14 MR. IACOPINO: Susan?

15 MS. GEIGER: Susan Geiger for the law firm  
16 of Orr & Reno representing the Town of Newington  
17 and with me this morning is Denis Hebert who is  
18 Chairman of the Newington Planning Board.

19 MR. IACOPINO: Good morning. To  
20 Mr. Hebert's left?

21 MS. MILLER: Vivian Miller, Durham  
22 Residents.

23 MS. HEALD: Donna Heald, Durham Residents,  
24 and I'm with my attorney, Marcia Brown, who is

1 not here at the moment.

2 MR. IACOPINO: She's here though.

3 MS. HEALD: Yes.

4 MR. IACOPINO: And behind you is Justin.

5 MR. RICHARDSON: Good morning, Mike,  
6 Pamela, everyone here. Justin Richardson with  
7 Upton Hatfield for the Joyce Crowley Revocable  
8 Trust and Mark Crowley who is here as well.

9 MR. IACOPINO: Doug?

10 MR. PATCH: Douglas Patch, representing the  
11 Town of Durham and the University of New  
12 Hampshire.

13 MS. LUDKE: Leslie Ludke working with the  
14 Conservation Law Foundation.

15 MR. IRWIN: And Tom Irwin representing  
16 Conservation Law Foundation.

17 MR. IACOPINO: Thank you. Having explained  
18 the Purpose of the Prehearing Conference, our  
19 next item on the agenda is discussion of any  
20 Stipulations or Settlements of any issues.

21 We did receive a few days ago a stipulation  
22 between, stipulation between the Applicant and  
23 Counsel for the Public with respect to, well,  
24 it's styled as stipulation and request for

1 findings of fact from those two parties jointly,  
2 and I guess the first question that I had, you  
3 want me to just go with this?

4 ADMINISTRATOR MONROE: Yes. Go ahead.

5 MR. IACOPINO: First question I had was  
6 have all the parties, first of all, seen that  
7 stipulation? If you haven't, can you raise your  
8 hand?

9 Doug, you haven't seen it?

10 MR. PATCH: I just want to point out for  
11 the record that we saw it when it got filed, but  
12 we were not consulted at all before it got  
13 filed. We didn't even know about it.

14 MR. IACOPINO: Okay. That's obviously one  
15 of the things that we can discuss. I thought I  
16 saw a hand go up over here on the left?

17 MS. FRINK: I have not seen it.

18 MR. IACOPINO: Do you have access to the  
19 docket right now? Are you online?

20 MS. FRINK: Not online.

21 MR. IACOPINO: Okay. Ms. Monroe has a copy  
22 you can take a look at, Ms. Frink. Thank you.

23 For those of you who have had the  
24 opportunity to look at it, do any other parties

1 envision that they may join in that stipulation  
2 and request for findings of fact either totally  
3 or partially at some point before we begin these  
4 adjudicative proceedings? Let me start with Ms.  
5 Geiger.

6 MS. GEIGER: Subject to check with my  
7 client, there may be some provisions within the  
8 stipulation of facts that Newington can agree  
9 to, but there are some that Newington will not  
10 agree to.

11 MR. IACOPINO: Mr. Richardson?

12 MR. RICHARDSON: I apologize. I was not  
13 aware of the filing. I'm trying to look it up  
14 right now so I'm -- I will certainly agree to  
15 anything that is reasonable under the  
16 circumstances, but I can't evaluate which  
17 particular findings right now.

18 MR. IACOPINO: All right. Ms. Brown?

19 MS. BROWN: As far as my client, Donna  
20 Heald, we haven't had a chance to digest it so  
21 we're going to need to delay our response to it,  
22 but, again, we would make every effort to accept  
23 stipulations that are reasonable, and I believe  
24 that's the same as the spokesperson for the

1 Durham Residents.

2 MR. IACOPINO: Is that correct, Ms. Miller?

3 MS. MILLER: Yes.

4 MR. IACOPINO: Doug, you already told us  
5 you hadn't had a chance, you weren't brought in  
6 when it was drafted. What's the Durham/UNH  
7 position with respect to --

8 MR. PATCH: I have not gone through it in  
9 detail with my client so I'm not prepared to say  
10 what we might or might not agree to at this  
11 point in time.

12 MR. IACOPINO: Ms. Frink, I know you  
13 haven't had a chance to see it yet.  
14 Mr. Lanzetta?

15 MR. LANZETTA: We're in the same position.  
16 We haven't been through it with Mr. Frizzell  
17 yet. We would agree to anything reasonable.

18 MR. IACOPINO: And I'm sorry. I skipped  
19 over CLF. Sorry.

20 MR. IRWIN: That's okay. Yes. I've  
21 reviewed the stipulation preliminarily, but not  
22 with an eye towards determining whether we might  
23 join the stipulation or parts of it. I suspect  
24 we may be in a position to join parts of it, but

1 I doubt that we will be in a position to join it  
2 in its entirety.

3 MR. IACOPINO: All right. Just want to get  
4 a sense of where everybody is with that and  
5 doesn't look like there will be any sort of  
6 global stipulation. Maybe on some issues if you  
7 all take a look at it. Really encourage it.  
8 You know, there are some, I guess what really  
9 requests for the Committee to find facts  
10 contained their document which may not really be  
11 much in dispute, but I'll leave that up to you  
12 all because you're the parties to determine  
13 whether or not it is, but we do strongly  
14 encourage you to agree. If there are facts in  
15 the stipulation that's been presented, we  
16 encourage you to agree. We also encourage you  
17 to come to any stipulations that you can.  
18 Obviously, this one was not reached by all the  
19 parties, only reached by two of the parties, and  
20 even though the time from the Procedural Order  
21 has passed for filing it, obviously if there are  
22 stipulations you're free to notify the Committee  
23 of that, obviously through Ms. Monroe's office  
24 and with copies to everybody else. So I just

1 want to encourage you to look at that. If there  
2 are things you can agree to agree. If there are  
3 other stipulations, stipulate.

4 Ms. Geiger?

5 MS. GEIGER: Just to clarify the record,  
6 with respect to the Town of Newington we were  
7 not given an opportunity to review this  
8 stipulation before it was filed with the  
9 Committee, and so I don't want the record to  
10 reflect that we were unwilling to stipulate  
11 prior to this time. It's just that we were not  
12 consulted prior to the time that this particular  
13 stipulation was filed.

14 MR. IACOPINO: All right. Thank you.

15 MR. RICHARDSON: Can I just chime in? I'm  
16 just reviewing this now. Paragraph 12 refers to  
17 all of the project being located within an  
18 existing right-of-way, and I think our  
19 intervention is pretty clear that we don't agree  
20 with that conclusion, and we want to dispute  
21 that one at the hearings.

22 MR. IACOPINO: Okay.

23 MR. RICHARDSON: I didn't want by my  
24 silence to have that go --

1 MR. IACOPINO: No, what you told me,  
2 Justin, was that you didn't have an opportunity  
3 to review it yet, but I guess you've at least  
4 seen one thing that you're pretty sure you're  
5 not going to stipulate to.

6 MR. RICHARDSON: Yeah, and I apologize. I  
7 think inadvertently my client did forward this  
8 to me, but I was not on the Service List and  
9 somehow I missed this when it came in so I  
10 didn't even realize it was before us today. So  
11 I apologize for that.

12 MR. IACOPINO: Nothing to apologize for.  
13 Let's move on though.

14 Withdrawals of any Testimony. I'm going to  
15 look first to the Applicant. Is there any  
16 change in the testimonies that -- you have filed  
17 some substitutions which are in the record and I  
18 think all of parties should be aware of if  
19 they've been reviewing what you filed.

20 Is there any anticipated withdrawals,  
21 substitutions or other types of activity like  
22 that with respect to the Prefiled Testimony from  
23 the Applicant?

24 MR. NEEDLEMAN: No. Not with ours.

1 MR. IACOPINO: Do you expect any further  
2 amendments, I guess we do, but can you tell us  
3 what further amendments you may expect before we  
4 get to the adjudicative? Or should we expect in  
5 the middle of the adjudicative hearing?

6 MR. NEEDLEMAN: To our testimony?

7 MR. IACOPINO: No. To the Application in  
8 general at this point. It's no secret that  
9 you're still in negotiations with the Department  
10 of Environmental Services who is not here today.  
11 Am I correct?

12 MR. NEEDLEMAN: Yes. I was thinking about  
13 that, and I was also thinking about some other  
14 things so certainly everybody is aware of the  
15 DES issue. We are continuing efforts with  
16 individual parties in some cases to sign MOUs,  
17 in some cases to reach some form of settlements,  
18 partial, potential, I just don't know. So to  
19 the extent any of those efforts are successful  
20 at any point in the proceedings, obviously we  
21 would introduce that to the Committee, and it  
22 may affect elements of our testimony.

23 MR. IACOPINO: Let me go to Counsel for the  
24 Public. Next. Do you expect any changes?

1 MR. ASLIN: I do not.

2 MR. IACOPINO: Amendments, withdrawals of  
3 testimony?

4 MR. ASLIN: I don't plan to amend the  
5 Application. No, I don't anticipate any changes  
6 to the testimony at this point.

7 MR. IACOPINO: Ms. Geiger? As far as the  
8 Town of Newington goes, is there still  
9 negotiations with further MOUs with Newington?

10 MS. GEIGER: No. There are two MOUs that  
11 are in the, well, an MOU and a supplement or an  
12 amendment that are in the record with Mr.  
13 Hebert's Prefiled Testimony.

14 I guess the other thing that was referenced  
15 in the Supplemental Testimony filed by the  
16 Applicant is that there is, there are some  
17 conversations ensuing with the Department of  
18 Historical Resources, Division of Historical  
19 Resources, and Eversource and Newington will be  
20 meeting to discuss potential MOU regarding  
21 impacts to historical resources. And if there's  
22 an agreement reached, I imagine that that will  
23 come in, will be marked as an exhibit.

24 MR. IACOPINO: What about from Newington's

1 perspective? Is there anything that you  
2 anticipate withdrawing, substituting, changing?

3 MS. GEIGER: No, the only thing I would  
4 mention is we'd like to get Mr. Weinrieb's  
5 Prefiled Testimony marked as a full exhibit.  
6 The issues that he's raised in his testimony  
7 have been resolved by the MOU that was filed  
8 with Mr. Hebert's testimony. We'd like not to  
9 have to bring him here to swear to his testimony  
10 under oath, and what I would propose is to have  
11 Mr. Hebert adopt Mr. Weinrieb's testimony as his  
12 own simply to have it in the record to provide  
13 background information for the Committee  
14 regarding the MOU issues, and I guess I would,  
15 when we get to it I can ask, I guess you'll be  
16 asking whether any parties have questions for  
17 Mr. Weinrieb, and if they don't I would hope  
18 that there could be assent to having Mr. Hebert  
19 adopt that testimony.

20 MR. IACOPINO: All right. We'll return to  
21 that particular issue when we get to the list of  
22 the testimonies. Okay.

23 Ms. Brown? Did you anticipate any changes  
24 to the testimony, any substitutions, any

1 withdrawals?

2 MS. BROWN: No, and that pertains to Donna  
3 Heald and the Durham Residents with the caveat  
4 that if circumstances change, we have a  
5 continuing obligation to inform the Committee of  
6 any changes.

7 MR. IACOPINO: Understood. Mr. Richardson?

8 MR. RICHARDSON: We obviously didn't file  
9 Prefiled Testimony, but we are expecting  
10 numerous other witnesses to revise their  
11 testimony on cross-examination.

12 MR. IACOPINO: I'll look forward to your  
13 vigorous cross-examination. Mr. Patch?

14 MR. PATCH: Both Durham and UNH are still  
15 in the process of working out MOUs with  
16 Eversource that have not been resolved yet. You  
17 know. We're hopeful those will be resolved  
18 before the hearings begin. You know, they're on  
19 limited issues but important issues.

20 And then with regard to withdrawal of  
21 testimony, no. We're not withdrawing any  
22 testimony. I mean, presumably, depending on  
23 what, how the DES issues gets resolved, it can  
24 certainly have a significant impact on the

1 Original and Supplemental Testimony,  
2 particularly that our four expert witnesses have  
3 filed.

4 MR. IACOPINO: CLF.

5 MR. IRWIN: CLF has no witnesses.

6 MR. IACOPINO: Let me go over to Ms. Frink.

7 MS. FRINK: I do not anticipate withdrawing  
8 or changing any of my testimony, and I do not  
9 have any witnesses to present.

10 MR. IACOPINO: Mr. Lanzetta for  
11 Mr. Frizzell?

12 MR. LANZETTA: We have no changes.

13 MR. IACOPINO: All right. Let's get to the  
14 order of witnesses.

15 All right. The Applicant has provided a  
16 list, and I'm just going to go through the  
17 manner in which they wish to present their  
18 witnesses and the dates. This was brought to us  
19 today. So I'll go through it, and then we'll, I  
20 don't know if there's any reason to discuss the  
21 order, but if there is, we'll discuss it.

22 On August 29th, the Applicant proposes to  
23 call William Quinlan and the Construction Panel  
24 which includes Kenneth Bowes, David Plante, Lynn

1 Farrington, William Wall, Mark Dodeman and Nick  
2 Strater so that's 7 witnesses on that panel.

3 ADMINISTRATOR MONROE: It's Frazier, isn't  
4 it?

5 MR. IACOPINO: Ms. Farrington is Ms.  
6 Frazier now. Okay.

7 On August 30th the Applicant is intending  
8 to call Victoria Bunker and the Construction  
9 Panel again. On September 17th, the Applicant  
10 is proposing the Construction Panel, Robert  
11 Andrew, and Aaron Cullen.

12 On September 18th, the Applicant intends to  
13 call its Environmental Panel which includes  
14 Sarah Allen, Ann Pembroke, Kurt Nelson, Bjorn  
15 Borkman and Dr. Craig Swanson so that's a  
16 five-person panel.

17 That panel will continue on September 20th  
18 followed by Robert Varney, and the Applicant  
19 indicates that Mr. Varney may appear on the 18th  
20 as well if the Environmental Panel concludes on  
21 the 18th. And Mr. Varney would be followed on  
22 September 20th by Dr. Lisa Shapiro who the  
23 Applicant reports is generally available, and if  
24 a gap arises in the proceedings, she's available

1 to come in and fill that gap. They're willing  
2 to provide everybody with reasonable notice  
3 about that.

4 But if everything goes according to the way  
5 they have their witnesses scheduled, she would  
6 be the last witness on September 20.

7 On September 21 the Applicant proposes to  
8 call Dr. Chalmers followed by Cherilyn Widell.  
9 On September 24, the Applicant proposes to call  
10 David Raphael followed by Dr. Bailey, and we do  
11 have a note from the Applicant here that that's  
12 the only day that Dr. Bailey is available for  
13 cross-examination. Of all the days that we've  
14 designated?

15 MR. NEEDLEMAN: Up through the 24th.

16 MR. IACOPINO: Okay.

17 MR. NEEDLEMAN: If pressed, we might be  
18 able to find another time, but it's pretty  
19 difficult right now.

20 MR. IACOPINO: Barry, is this document  
21 something that you've sent out to all the  
22 parties yet?

23 MR. NEEDLEMAN: We gave it to them this  
24 morning.

1 MR. IACOPINO: All right.

2 MR. RICHARDSON: Can I ask a question about  
3 the list that's been distributed? When it says  
4 the Construction Panel, and then it lists -- so  
5 that's the same Construction Panel that's going  
6 to appear each day? And then there's going to  
7 be different people with the panel on the  
8 following days? Do I understand that correctly?

9 MR. NEEDLEMAN: No. So when it says  
10 Construction Panel, all 7 members of the panel  
11 will be there and will be available for  
12 questioning. The only reason that there is an  
13 interruption there is because Dr. Bunker is out  
14 of the country in the second half of September,  
15 and so we have to get her completed before the  
16 end of the day on August 30th, and so our  
17 intention, depending on how things go and the  
18 estimates of time that people offer for what  
19 they're going to need, would be to interrupt the  
20 Construction Panel for a brief time to get her  
21 up and done and then continue with Construction  
22 Panel at some -- I think folks understand it's  
23 extraordinarily difficult to understand how long  
24 these things are going to take, especially when

1 we haven't gotten estimates from people. So  
2 we're doing our best to try to line folks up  
3 based on our assessments of how much time these  
4 Panels may take and our witnesses' availability.

5 MR. IACOPINO: I assume she's not available  
6 on the 29th. Is that the issue?

7 MR. NEEDLEMAN: She is available on the  
8 29th, but our preference is to get going with  
9 the Construction Panel before we start talking  
10 about the archeological effects.

11 MR. RICHARDSON: So then the Construction  
12 Panel is testifying on its own, and then when  
13 they're done, they're done. It's just that it's  
14 going to have to continue over some time.  
15 You're not going in conjunction with the other  
16 witnesses that are on that day. That's not the  
17 appropriate -- did I get that right?

18 MR. NEEDLEMAN: Correct.

19 MR. IACOPINO: We're not going to have room  
20 to put more than 7 people up on the witness dais  
21 anyway.

22 MR. PATCH: Looks like 6. Is it 6 or 7?

23 MR. IACOPINO: Six. I'm sorry. But that's  
24 going to max out our witness stand in any event.

1 MS. GEIGER: Newington's preference would  
2 not be to break up testimony that was provided  
3 by the Construction Panel. I mean, if Ms.  
4 Bunker is availability for the 30th, and we can  
5 get her testimony in completely on that day, I  
6 think she should be allowed to do that.

7 MR. IACOPINO: You mean on the 29th?

8 MS. GEIGER: 29th. I'm sorry.

9 MR. IACOPINO: They're proposing her on the  
10 30th.

11 MR. NEEDLEMAN: That's not something we  
12 want to do. Our intention is to talk about the  
13 project that we're trying to build and how we  
14 propose to build it as much as possible before  
15 we start talking about effects. And I guess  
16 we'll hear later today what people's estimates  
17 are for the amount of time they'll need for Mr.  
18 Quinlan, but our hope and expectation is we can  
19 get a fair amount of testimony from the  
20 Construction Panel done before we have to turn  
21 to Ms. Bunker for a brief period of time.

22 MR. IACOPINO: Doug?

23 MR. PATCH: I'm not sure this is the time  
24 you want to hear it, but I think any witness

1 that has anything that pertains to DES  
2 conditions that they would impose really ought  
3 to wait until we know how that's being resolved.  
4 And I know some of the Construction Panel  
5 people, for example, Mr. Wall, and possibly a  
6 couple of the others, but Mr. Wall, in  
7 particular, has a lot of testimony about jet  
8 plowing. So unless you want to make him  
9 available to come back later, it seems to me  
10 that the appropriate thing to do would be if you  
11 want to go ahead on the 29th and the 30th is to  
12 take witnesses who basically have nothing to do  
13 with what DES might or might not say, what the  
14 Applicant and DES might or might not agree to --  
15 excuse me. Assuming that the Committee decides  
16 to let them go ahead with those discussions. So  
17 I think it's problematic in terms of how it's  
18 being proposed. So I think that's something  
19 that's very important to get straight today.

20 MR. IACOPINO: What we don't have is we  
21 don't have a DES representative here. All we  
22 have is a letter that we received from them  
23 asking for additional time until September 1?  
24 September 7th to respond.

1 ADMINISTRATOR MONROE: September 7th.

2 MR. IACOPINO: So that's where DES is with  
3 respect to this. What we did was the DES was  
4 forwarded a letter from the Chair, from the  
5 Presiding Officer, because it appears that the  
6 Applicant's requesting that conditions that may  
7 be different from what DES has proposed be  
8 adopted, and so in order to try to get as much  
9 of that issue up front instead of waiting until  
10 deliberations to notify DES, the Presiding  
11 Officer asked DES to respond, and hopefully we  
12 will get a response, and as we've all heard  
13 already, there are still negotiations going on.

14 I mean, I think the issue that's raised,  
15 Mr. Needleman, is a concern because obviously  
16 we're not even going to have any DES response  
17 until September 7th, it appears. And I do  
18 understand Mr. Wall does testify somewhat about  
19 the submarine construction which sort of crosses  
20 with the environmental issues.

21 So I just have to caution you that it may  
22 turn out that you may have to have some of these  
23 people return. I don't know if you've  
24 contemplated that, but depending on what DES

1 provides on September 7th or thereafter, the  
2 Committee itself may have questions that involve  
3 witnesses from your Construction Panel.

4 MR. NEEDLEMAN: So a couple of points on  
5 that. First of all, the motion was filed  
6 yesterday. I hadn't even had a chance to talk  
7 to my client about it, let alone start to put an  
8 objection together.

9 MR. IACOPINO: Which motion, the DES  
10 request?

11 MR. NEEDLEMAN: No, the Durham motion to  
12 delay the proceedings which Doug is talking  
13 about.

14 MR. IACOPINO: I'm not even talking about  
15 that right now. I'm just talking about in terms  
16 of the way that you have it scheduled, your  
17 Construction Panel pretty much up first after  
18 Mr. Quinlan, we know there will not be a  
19 DES response -- well, they could, I suppose, but  
20 they've asked until September 7th to respond.

21 MR. NEEDLEMAN: Right.

22 MR. IACOPINO: Which means that once they  
23 do respond, the parties and of course my concern  
24 is more the Committee, may have questions based

1 upon however DES responds and whatever  
2 agreements you may or may not come up with with  
3 them, there may be additional questions that are  
4 best directed to members of your Construction  
5 Panel.

6 MR. NEEDLEMAN: Understood, and as it's  
7 laid out in that schedule, our expectation is  
8 that the Construction Panel is going to be back  
9 here on September 17th after whatever DES  
10 provides to the Committee has been filed. So to  
11 the extent people have those sorts of questions  
12 they would have that opportunity in the normal  
13 course the way we've laid this out.

14 MR. IACOPINO: The witnesses would be here.  
15 I mean, ultimately, the Presiding Officer will  
16 decide if there's an issue to be decided.  
17 Mr. Patch?

18 MR. PATCH: I just think it's important to  
19 clarify some time before the hearings begin.  
20 Would I be expected on behalf of my client to  
21 ask all of the questions that I have at this  
22 point in time of that Construction Panel on  
23 those days before we hear from DES? Because it  
24 would change, it could change significantly the

1 cross-examination that I do of some of those  
2 witnesses because, obviously, everything and  
3 anything in the DES recommendation we have to  
4 assume at this point is still in flux.

5 You know, we got what the statute says is a  
6 final decision from DES, we submitted testimony  
7 based on that, Supplemental Testimony, and I  
8 prepared my cross based on that, and I just  
9 found out on Monday that there are ongoing  
10 discussions, as Mr. Pelletier says. So I think  
11 that puts us at a distinct disadvantage. You  
12 know, if we're expected to prepare a cross, you  
13 know, where we don't really know what the DES  
14 recommendation ultimately may be, then I just  
15 think that's really, it is really very difficult  
16 for us to prepare for that.

17 MR. IACOPINO: Okay. Well, obviously, you  
18 have a motion filed with respect to requesting a  
19 delay in the proceedings, and that will be  
20 decided by the Presiding Officer. We're not  
21 going to decide that here today, and I  
22 understand that most of what you've just said is  
23 an argument to support that. But right now  
24 we're going to move forward on the basis that

1 we're beginning next week and subject to  
2 whatever Ms. Weathersby rules on your motion.

3 MR. PATCH: Can I just say one more thing  
4 and then I won't say anything more about it?

5 MR. IACOPINO: Sure.

6 MR. PATCH: If the motion isn't decided  
7 until the morning of the 29th, and I have to  
8 come prepared to cross-examine witnesses, not  
9 knowing what the Committee is going to do about  
10 that, and not knowing what the DES changes might  
11 be, I think that's fundamentally unfair.

12 MR. IACOPINO: Thank you.

13 MR. NEEDLEMAN: Well --

14 MR. IACOPINO: I'm sure that we will make  
15 it as fair as is humanly possible, and what I  
16 was going to discuss is what does happen when we  
17 do this is it does sort of create sort of a  
18 merry-go-round of examination because we may be  
19 halfway through the parties' cross-examination,  
20 we may be done with half of the parties. Your  
21 DES stuff comes back, we've got to give another  
22 audience to those parties to come back and now  
23 cross-examining because there's information from  
24 DES that may affect Mr. Wall's testimony or

1 other members of the Construction Panel. It  
2 does make it somewhat disorganized just in terms  
3 of the flow of the evidence. Obviously, we'd  
4 prefer to have the witness, the  
5 cross-examination, the redirect, and then move  
6 on to the next party without having to come back  
7 and do further cross-examinations or even  
8 further redirects which may be required.

9 MR. NEEDLEMAN: Understood. I wasn't going  
10 to say anything about this, but we haven't had  
11 the chance to object. I do disagree with the  
12 way Doug is framing this issue. I don't believe  
13 that there's anything unusual about this in  
14 relation to how this has happened in other  
15 proceedings, and people have always had a full  
16 and fair opportunity to cross-examine and to  
17 raise any concerns they have in their  
18 post-hearing briefs. I fully expect they would  
19 get that chance here as well. And as I said,  
20 the way things are structured right now, we  
21 expect that that Construction Panel will  
22 continue to be available well after DES says  
23 whatever they're going to say here and people  
24 will get to ask that Panel questions as this is

1 laid out here.

2 MR. IACOPINO: Susan first.

3 MS. GEIGER: Yes. I think there's another  
4 argument to be made to support having the  
5 Construction Panel testify after we get  
6 information back from DES as to whether or not  
7 they're going to change any of their conditions,  
8 and that is administrative efficiency. A lot of  
9 parties could be spending a lot of time  
10 preparing cross-examination on issues that may  
11 be mooted out by something that DES decides. So  
12 I don't think it would be appropriate or fair  
13 even to the Committee members to spend a lot of  
14 time questioning witnesses on issues that may  
15 change. So I would strongly urge that the  
16 Construction Panel not be testifying until after  
17 we have some final word from DES as to whether  
18 or not it's going to change any of its final  
19 conditions.

20 MR. NEEDLEMAN: The DES issues as it  
21 relates to the Construction Panel is one minor  
22 issue in a whole range of issues. This  
23 Construction Panel, if anybody looks at the  
24 testimony that they've provided, covers an

1 enormous amount of ground that has nothing to do  
2 with DES conditions. And so, you know, the  
3 notion that, first of all, it should be delayed  
4 because of that, I don't think is right. Second  
5 of all, the Applicant has a right to present its  
6 case and its witnesses the way it wants to  
7 present it, and it's our intent, it's the way we  
8 want to present the case is to lead with the  
9 Construction Panel because that's what makes  
10 sense in the context of the proceeding, and as  
11 I've said before, we fully expect people will  
12 have an opportunity to ask that panel whatever  
13 questions they need to ask them.

14 MR. IACOPINO: Anybody else? Ms. Frink.

15 MS. FRINK: I would like to support  
16 Attorney Patch and Attorney Geiger. I intend to  
17 raise some very serious DES-related issues in my  
18 questioning as well so I'm very eager to have  
19 this issue of the negotiations, the ongoing  
20 negotiations resolved before we proceed.

21 MR. IACOPINO: Anybody else?

22 Mr. Richardson?

23 MR. RICHARDSON: Two things. One is the  
24 statute contemplates that the DES conditions are

1 final going into the hearings when you look at  
2 the days that have been counted, and I think it  
3 was a four-month gap between the final  
4 conditions and the ultimate decision, and I  
5 think that's what's intended here. What we're  
6 presented with is a problem where a construction  
7 witness may say well, we've spoken to DES about  
8 this condition and they're going to change it.  
9 We're not going to know DES's position which is  
10 something that the statute kind of lays out in  
11 the schedule.

12 You know, I don't know that this is the  
13 best way to resolve it, but one thing that the  
14 Committee may need and the parties may need is  
15 to know what DES's position is if a witness is  
16 asked a question and says well, DES is going to  
17 modify it's that or it's not going to modify  
18 what we proposed, we're stuck with this, you  
19 know, alternative where we can't guess what the  
20 DES's position is. I wonder if it would make  
21 sense, and I believe the Committee has the lead  
22 authority to subpoena DES and make their  
23 official available, and I know that sounds  
24 unheard of, and it's not something that has been

1 practiced before.

2 MR. IACOPINO: Justin. It's been done.

3 MR. RICHARDSON: Oh, it has? Okay.

4 MR. IACOPINO: Yes. A letter went from the  
5 Presiding Officer to DES asking first for a  
6 response to attach to the letter was the  
7 conditions that the Applicant is seeking. We  
8 asked them to respond within ten days in  
9 writing. We received a letter from them asking  
10 to extend that to September 7th. So that's been  
11 done. Whether or not a representative is going  
12 to be here subject to cross-examination from  
13 DES, I don't know yet.

14 MR. RICHARDSON: In the ten-day response  
15 time that's in that letter is statutory. It's  
16 in 162-H:7 A. And so by delaying it until after  
17 the hearings, we're left without a piece of  
18 information we need to know, and, obviously, the  
19 methods of construction impact my client  
20 directly.

21 MR. IACOPINO: Unfortunately, that ten-day  
22 is not statutory in the context of the case  
23 where we are now. That's only when, the only  
24 time that the ten days becomes statutory is when

1 the Subcommittee determines that they're going  
2 to issue conditions that are different. What we  
3 have done is we've, identifying that this may be  
4 a problem, we've asked them to respond earlier  
5 than the statute actually would require us to  
6 do. If we followed the statute to a "T," we  
7 would be in deliberations, the Committee would  
8 determine that they're going to issue some  
9 condition that is different than that requested  
10 by DES, and the Committee then statutorily would  
11 be required to notify DES and get a response  
12 from them within 10 days.

13 Anticipating there could be issues, the  
14 Presiding Officer sent a letter to DES asking  
15 them to respond within ten days. There's no  
16 statutory requirement there at this stage of the  
17 proceeding.

18 MR. RICHARDSON: I misunderstood what the  
19 letter was. I thought I was invoking that  
20 provision so that's why I made that statement.  
21 But let me, I think what that does is that makes  
22 it right back to what Attorney Geiger just  
23 referenced which is administrative efficiency  
24 because now we're faced with a potential where

1 the conditions we all think apply may not apply.

2 MR. IACOPINO: Well, it certainly makes it  
3 more administratively efficient than it would be  
4 under the statute because you're going to have  
5 more opportunity and all the parties will have  
6 more opportunity to address the issue, whether  
7 through cross-examination or argument if it all  
8 comes out while the adjudicative proceeding is  
9 going forward and does not begin at the time of  
10 deliberations. So that's just, you know,  
11 it's -- neither one is the best scenario, but I  
12 think this one is better. Mr. Patch.

13 MR. PATCH: Two quick points in response to  
14 what Mr. Richardson said. One, in terms of a  
15 subpoena, the letter from the Presiding Officer  
16 invited DES to attend today, and they didn't  
17 attend. So they may be invited to attend to the  
18 hearings, but if they're not going to attend,  
19 then a subpoena might have to issue.

20 And the second point is that in that  
21 letter, the citation, you said it wasn't a  
22 statutory ten days, but the letter cites the  
23 statute. So, you know, it seems to me that it  
24 invokes the statute, I think Mr. Richardson's

1 point was that, and I think there's support for  
2 this in some prior committee rulings that the  
3 Committee doesn't really have the authority to  
4 waive a statutory deadline. So I think that's  
5 effectively what is happening, including with  
6 the final, quote, unquote, final decision.

7 MR. IACOPINO: Mr. Aslin?

8 MR. ASLIN: I think this is important  
9 discussion, but perhaps in front of the wrong  
10 body since the Presiding Officer is the one who  
11 has to make the decision on the motion. So  
12 there are some important arguments that have  
13 been made, but I think for the expediency of  
14 this Prehearing Conference I would suggest that  
15 we move forward, and I would request or just  
16 make the statement that to the extent we're  
17 agreeing on any schedule today, I would reserve  
18 the right to recall or whatever is necessary to  
19 ask witnesses questions about the DES  
20 recommendations after they come out if a Panel  
21 has been completed.

22 MR. IACOPINO: Understood. But remembering  
23 that today is an opportunity to maybe try to  
24 avoid some of those recalls and whatnot, but

1 doesn't seem like there's going to be much  
2 agreement on that at this point. So I don't  
3 have any problem with moving on to, at least  
4 based upon what everybody knows today,  
5 determining what type of examinations, how long  
6 we intend to spend with the various witnesses  
7 unless anybody else has anything else that they  
8 feel they need to say about the order that the  
9 Applicant intends to present its witnesses.

10 Mr. Richardson?

11 MR. RICHARDSON: Since we are really  
12 talking about scheduling, could the schedule  
13 that is stipulated or issued today based on  
14 these discussions include a place holder that  
15 says for the, and in particular I'm looking at  
16 the marine construction issues, to have that  
17 witness return after the DES recommendations so  
18 that we're not by coming out of this proceeding,  
19 we're not leaving ourselves without a remedy in  
20 the event that DES does modify its terms and  
21 conditions.

22 MR. IACOPINO: We have a number of days  
23 beyond what's the ones that the Applicant has  
24 suggested. They've suggested that their

1 witnesses are going to go through September  
2 24th. We have a number of days after September  
3 24th where our Committee is available.  
4 Obviously, we've got to hear from the witnesses  
5 from the other parties. But also there are days  
6 that are built in there for that, and I'm sure  
7 that if the Presiding Officer determines that a  
8 witness need to be recalled, she will do that,  
9 and she will determine whether to make a place  
10 holder for it or not.

11 MR. RICHARDSON: Understood. But at least  
12 if there's some stipulation among the parties  
13 here today that contemplates that a witness may  
14 be recalled to address DES conditions, then, you  
15 know, we can rely on that, and then we could  
16 make our arguments to say when we were here  
17 today we discussed this issue, we agreed to do  
18 this. Whereas if we don't do that, the  
19 Applicant can say well, tough luck, they  
20 testified. I'm not calling them back.

21 MR. NEEDLEMAN: No, Justin, I'm not saying  
22 that, and I wouldn't say that, and I'll repeat  
23 what I said before. The Construction Panel will  
24 be here on September 17th.

1 MR. IACOPINO: All right. But his concern  
2 is more, it's not just about the 17th. It's  
3 about having the ability to respond to whatever  
4 the DES, to ask questions of the Construction  
5 Panel based on whatever changes or maybe DES  
6 won't change a thing, but based upon whatever  
7 the response from DES is. I understand. And as  
8 I said to you before, I mean, and I think you  
9 understand this as well is that if the parties  
10 request and the Presiding Officer determines  
11 it's the best way to proceed, you may be  
12 requested to have some of these witnesses be  
13 recalled subject to further cross-examination.  
14 It wouldn't be the first time it's happened,  
15 and it may very well happen, and I'm sure the  
16 Presiding Officer if that becomes the case will  
17 try to do that in a manner that is as fair as  
18 possible to all of the parties involved.  
19 Mr. Patch?

20 MR. PATCH: To the extent that you are  
21 going to write up what happens today, I would  
22 just like it to be noted for the record that  
23 Durham and UNH oppose having the Construction  
24 Panel testify until we hear the final results

1 from discussions with DES or until the Committee  
2 decides on our motion that those discussions  
3 should not continue. And so I think, you know,  
4 I would just like that to be noted in the record  
5 and that we would be agreeable to taking other  
6 witnesses on those two days who are not ones who  
7 have basically anything to say about the DES  
8 recommendations, but an opposed to having them  
9 go on either one of those days until the DES  
10 issues are resolved.

11 MR. IACOPINO: Are there any of the  
12 Intervenors who don't oppose it? Raise your  
13 hands. Seeing none, I'll note that all of the  
14 Intervenors oppose it. How about Counsel for  
15 the Public? Chris, if you have a position. If  
16 you don't have a position, it's entirely okay.

17 MR. ASLIN: In response to Attorney Patch's  
18 request for concurrence, Counsel for the Public  
19 concurred with only the portion of the motion  
20 that had to do with access to communications  
21 that have gone on with DES. We haven't taken a  
22 position on the delay question. I would, from  
23 my perspective I'm okay with having a chance to  
24 get at the witnesses after the DES decision is

1 made.

2 MR. IACOPINO: Okay. But the question is  
3 based on, his opposition as stated is to the  
4 order proposed by the Applicant.

5 MR. ASLIN: I do not object to the order.

6 MR. IACOPINO: Okay. All right. Let's  
7 move on then.

8 So we anticipate the order of case  
9 presentation to be that it's the Applicant  
10 followed by Counsel for the Public followed by  
11 Durham/UNH, followed by Newington, followed by  
12 CLF, followed by the Durham Residents, Ms.  
13 Heald, the Millers, that group, followed by  
14 Durham Historic Society which by the way, are  
15 they here?

16 ADMINISTRATOR MONROE: No.

17 MR. IACOPINO: Followed by Mr. Frizzell,  
18 followed by Ms. Frink. Is Mr. Baker out, too?

19 ADMINISTRATOR MONROE: Yes. Mr. Baker told  
20 me he would not be here, and he has no questions  
21 for any witnesses.

22 MR. IACOPINO: Followed by the Nature  
23 Conservancy who we haven't heard from lately  
24 either, correct? And then followed, last but

1 not least, by Mr. Richardson for Crowley Joyce  
2 Revocable Trust.

3 So that's the order that we have sort of  
4 put here, and what I'd like to do is go through  
5 starting with the Applicant's witnesses and go  
6 around the room for each party just to get an  
7 idea, you will not be held to this. When you  
8 say I'm going to be an hour with the witness,  
9 nobody is going to have an alarm clock on  
10 telling you okay, you said an hour, you're going  
11 to stop. This is so we can schedule these  
12 things as best as possible. So give us your  
13 best estimate based on what you know today. I  
14 understand, we don't have to address the fact  
15 that there's some things in flux every time that  
16 we answer how long you may be with the witness.  
17 We understand that things are in flux,  
18 particularly with the construction and  
19 Environmental Panels, and the response from DES.

20 MR. ASLIN: Mike, can I comment on the  
21 order of inquiry? The rules do contemplate that  
22 Counsel for the Public follows the Intervenors  
23 and that that's what the rules say unless the  
24 Presiding Officer makes a finding that it would

1 be more appropriate for expediency or other  
2 reasons. So I think it's appropriate to follow  
3 the rules, and I'm wondering if the Presiding  
4 Officer has taken a position on this officially?

5 MR. IACOPINO: No. This is just staff  
6 putting together a list. Okay?

7 MR. ASLIN: Okay.

8 MR. IACOPINO: I wasn't even aware of that  
9 rule --

10 MR. ASLIN: 202.20.

11 MR. IACOPINO: If you desire to go last and  
12 that's what the rules say, you'll go last.

13 MR. ASLIN: Okay. I think it's appropriate  
14 for it to flow that way, but I know it has been  
15 changed in the past.

16 MR. IACOPINO: Just because I have a cheat  
17 sheet that's working in the other direction,  
18 we're going to turn to you first.

19 MR. ASLIN: Happy to go first.

20 MR. IACOPINO: We'll go through the  
21 witnesses that are on the list. Okay. So for  
22 the Applicants?

23 MR. FRINK: Excuse me, Mike. I have a  
24 question.

1 MR. IACOPINO: I'm sorry. I didn't see  
2 your hand, Ms. Frink.

3 MR. FRINK: I have a question about the  
4 Applicant's witnesses. If I could just have a  
5 refresher on those witnesses testifying on  
6 historic resources. I believe Victoria Bunker  
7 worked on archeology? And who are the other  
8 witnesses who are specialists in historic  
9 resources? I believe Cherilyn Widell, I'm not  
10 sure about David Raphael. Barry, perhaps you  
11 can help.

12 MR. NEEDLEMAN: Sure. Vicky Bunker, you're  
13 correct, is archeology. Cherilyn Widell is  
14 above-ground historic resources, and that's  
15 essentially it. Dave Raphael is Visual Impact  
16 Assessment.

17 MR. FRINK: Okay. Thank you very much.

18 MR. IACOPINO: So Chris, I'm going to start  
19 with you, and we'll go through the Applicant's  
20 witnesses first, and this is your best estimate  
21 as to how much time you're going to take with  
22 them, understanding that you'll be going last so  
23 other people may have asked some of your  
24 questions already. So beginning with

1 Mr. Quinlan.

2 MR. ASLIN: I anticipate 15 or 20 minutes  
3 for Mr. Quinlan. The Construction Panel?

4 MR. IACOPINO: We don't have them in the  
5 same order so I'm going to go to Mr. Andrew. Is  
6 that going to throw you off too much?

7 MR. ASLIN: No, that's fine. Mr. Andrew,  
8 15 minutes.

9 MR. IACOPINO: Okay. Then the Construction  
10 Panel.

11 MR. ASLIN: I would anticipate two hours  
12 for the Construction Panel, given that I'll be  
13 going last.

14 MR. IACOPINO: And Mr. Cullen on  
15 financials?

16 MR. ASLIN: Probably five minutes.

17 MR. RICHARDSON: I apologize. Mr.  
18 Iacopino, is there a list you're working off of?  
19 The prehearing order had the order of  
20 examination, but it didn't have the witness  
21 order. Are we going off the Applicant's  
22 proposed list, which list are we going off?

23 MR. IACOPINO: We're going off a cheat  
24 sheet that Ms. Monroe put together for me, and

1 it's just basically, it's not the list of the  
2 order of the witnesses. Just so you're aware.  
3 But I'll try to tell you what their area is so  
4 that that can refresh your recollection.

5 MR. RICHARDSON: That would be helpful  
6 because I have a list that I made, but it's off  
7 of the testimony that's been offered. Some of  
8 that has been superseded so I'm trying to --  
9 it's hard to catch who's testifying.

10 MR. IACOPINO: Mr. Cullen is one of the  
11 financial witnesses, okay? That was the last  
12 one Counsel for the Public told us. The next  
13 one is Mr. Raphael on aesthetics.

14 MR. ASLIN: I especially about a half an  
15 hour for Mr. Raphael.

16 MR. IACOPINO: Now, we had Widell and  
17 Bunker as one, anticipating that that would be a  
18 thing. So Ms. Widell, let's start with Ms.  
19 Bunker.

20 MR. ASLIN: For Ms. Bunker, probably 20  
21 minutes.

22 MR. IACOPINO: And Ms. Widell?

23 MR. SIMPSON: I'd say 30 to 40.

24 MR. IACOPINO: And then the Environmental

1 Panel consisting of Frizzell and Ms. Pembroke,  
2 Mr. Nelson, Mr. Borkman and Mr. Swanson. I may  
3 have missed up some of the Mr. or Ms. there.

4 MR. ASLIN: I anticipate about an hour and  
5 a half.

6 MR. IACOPINO: And then on electromagnetic  
7 fields, Dr. Bailey?

8 MR. SIMPSON: Probably five minutes.

9 MR. IACOPINO: Mr. Varney for orderly  
10 development of the region and tourism.

11 MR. ASLIN: About a half hour.

12 MR. IACOPINO: Mr. Chalmers on property  
13 values?

14 MR. ASLIN: Probably 30 to 40 minutes.

15 MR. IACOPINO: And Ms. Shapiro on  
16 economics, employment and tax revenue?

17 MR. ASLIN: Five minutes.

18 MR. IACOPINO: Okay. Let me take you down  
19 to the Intervenor witnesses for Mr. Aslin for  
20 Mr. Selig from Durham/UNH?

21 MR. ASLIN: About ten minutes.

22 MR. IACOPINO: For the Durham/UNH panel of  
23 Famely, Schultz, Jones and Dacey, I believe  
24 that's the -- Doug, that's your Environmental

1 Panel, right?

2 MR. PATCH: Yes.

3 MR. ASLIN: 20 minutes.

4 MR. IACOPINO: And for Denis Hebert from  
5 Newington?

6 MR. SIMPSON: Ten to 15.

7 MR. IACOPINO: Is that all?

8 MR. ASLIN: I can make it longer if you  
9 want, Mike. Two days.

10 MR. HEBERT: Mike, you have a good memory.

11 MR. IACOPINO: So Mr. Weinrieb will not  
12 actually be here? Okay? So we'll take him off.

13 MR. ASLIN: And I don't have any objection  
14 to Mr. Hebert adopting that testimony. I might  
15 have a couple questions on it, but if they can  
16 could be answered by Mr. Hebert, that's fine.

17 MR. IACOPINO: As I said before, we'll get  
18 back to that when we're done trying to get an  
19 idea on people's expected times here.

20 The Durham Residents, I assume they're  
21 going to testify as a panel? Is that correct?  
22 Do you know how long you'd be with them?

23 MR. ASLIN: I would say, so just to make  
24 sure I have the right witnesses, this is Ms.

1 Heald, Dr. Miller, Mr. and Mrs. Miller and  
2 Mr. and Mrs. Fitch?

3 MR. IACOPINO: Correct.

4 MR. ASLIN: I think 20 to 30 minutes.

5 MR. IACOPINO: And the Durham Historic  
6 Resources are Sandberg and Mackie?

7 MR. ASLIN: Also 20 minutes.

8 MR. IACOPINO: Mr. Frizzell?

9 MR. ASLIN: Five minutes.

10 MR. IACOPINO: Ms. Frink?

11 MR. ASLIN: Ten minutes.

12 MR. IACOPINO: And we've been told that  
13 Mr. Baker is not going to be here.

14 ADMINISTRATOR MONROE: No. He's not here  
15 today. He filed Prefiled Testimony.

16 MR. ASLIN: Ten minutes.

17 MR. IACOPINO: Let me then, just because  
18 it's, again, this is not, the way that I'm going  
19 through this is not consistent with the order  
20 that's in the thing so next person I'm going to  
21 talk to is Durham/UNH, Mr. Patch. Understanding  
22 you have a motion pending and understanding that  
23 you have reservations about the order, let's  
24 take it through.

1           With respect to Mr. Quinlan, based on what  
2 you know now, do you know how much time you're  
3 going to need to cross-examine him?

4           MR. PATCH: I guess I'd say approximately  
5 25 minutes.

6           MR. IACOPINO: And for Mr. Andrew on system  
7 stability, reliability and need for power?

8           MR. PATCH: 15 minutes.

9           MR. IACOPINO: And on the Construction  
10 Panel?

11           MR. PATCH: I mean, the thing that's  
12 throwing me off is I didn't know we were going  
13 to have six people on that panel. The testimony  
14 you actually came in as three people together.  
15 So that's kind of thrown me a bit. And so I  
16 guess, just to be safe, I had a fair amount for  
17 Mr. Wall, and so I guess I'll say two hours for  
18 that panel.

19           MR. IACOPINO: And everybody, be, you know,  
20 when I say be conservative, it means the longer  
21 time here. Okay? So if you think, you know --

22           MR. PATCH: Can I just ask? Is there a  
23 reason why there have to be 6 people on one  
24 panel? Because that seems to me, you know, why

1 you can't do the way it came in as testimony  
2 like three and three or three and one, Wall was  
3 all by himself, and so, you know, I guess we  
4 could have ten on a panel if you want. But why  
5 six? Six seems like an inordinate number.

6 MR. IACOPINO: We've historically worked  
7 with the manner in which the Applicant or any  
8 party which wishes to present its witnesses, you  
9 know, so that's where it comes from.

10 MR. PATCH: I guess I'd just like to go on  
11 record as opposed to being to having all six on  
12 one panel, but that having been said I'd say two  
13 hours.

14 MR. IACOPINO: Thank you. And Mr. Cullen  
15 on financial capabilities?

16 MR. PATCH: 15 minutes.

17 MR. IACOPINO: And for Mr. Raphael, visual  
18 impact and aesthetics?

19 MR. PATCH: 30 minutes.

20 MR. IACOPINO: And again, for Ms. Bunker?

21 MR. PATCH: Ten minutes.

22 MR. IACOPINO: Ms. Widell?

23 MR. PATCH: 20.

24 MR. IACOPINO: For the Environmental Panel

1 of Allen, Pembroke, Nelson, et al?

2 MR. PATCH: Is et al --

3 MR. IACOPINO: Swanson, Borkman.

4 MR. PATCH: So they're all together now two  
5 which is different from the way the testimony  
6 came in. So, again, I object. So I guess I  
7 would say two hours for that panel.

8 MR. IACOPINO: For Dr. Bailey on the  
9 electromagnetic fields, public health and  
10 safety?

11 MR. PATCH: Ten minutes.

12 MR. IACOPINO: For Mr. Varney on orderly  
13 development and tourism?

14 MR. PATCH: 20.

15 MR. IACOPINO: Mr. Chalmers with property  
16 values?

17 MR. PATCH: Ten.

18 MR. IACOPINO: And Ms. Shapiro on  
19 economics, employment and tax revenue?

20 MR. PATCH: Five. Maybe less.

21 MR. IACOPINO: And then for Counsel for the  
22 Public has their, we're just calling it  
23 Environmental and Construction, but is it your  
24 intention, Chris, to call Mr. Whitney and

1 Mr. Ladewig together?

2 MR. ASLIN: Yes. They have Joint Testimony  
3 so they would be on a Panel together.

4 MR. IACOPINO: So with respect to Whitney  
5 and Ladewig on Environmental and Construction?

6 MR. PATCH: I'll say 45.

7 MR. IACOPINO: For Lawrence on aesthetics  
8 and visual impacts?

9 MR. PATCH: 20.

10 MR. IACOPINO: And for Ms. O'Donnell on  
11 both historic and archeological?

12 MR. PATCH: 20.

13 MR. IACOPINO: Okay. You intend to  
14 cross-examine Mr. Hebert for how long?

15 MR. PATCH: At great length. 15 minutes.

16 MR. IACOPINO: Thank you. For the Durham  
17 Residents panel?

18 MR. PATCH: I guess I'd say maybe 15  
19 minutes.

20 MR. IACOPINO: Thank you. For the Durham  
21 Historic Association?

22 MR. PATCH: 15 minutes.

23 MR. IACOPINO: Mr. Frizzell?

24 MR. PATCH: Five.

1 MR. IACOPINO: Ms. Frink?

2 MR. PATCH: Five.

3 MR. IACOPINO: And Mr. Baker?

4 MR. PATCH: Five.

5 MR. IACOPINO: Thank you. We're going to  
6 turn to Newington. Ms. Geiger.

7 I'll go through the list starting with  
8 Mr. Quinlan.

9 MS. GEIGER: Mr. Quinlan, I have ten  
10 minutes.

11 MR. IACOPINO: Mr. Andrew on system, need,  
12 reliability, stability?

13 MS. GEIGER: 30 to 45.

14 MR. IACOPINO: On the Construction Panel?

15 MS. GEIGER: 45 minutes to an hour.

16 MR. IACOPINO: Mr. Cullen on financial  
17 capabilities?

18 MS. GEIGER: Five.

19 MR. IACOPINO: Minutes?

20 MS. GEIGER: Minutes.

21 MR. IACOPINO: Mr. Raphael with respect to  
22 visual impacts and aesthetics?

23 MS. GEIGER: 30 minutes.

24 MR. IACOPINO: Ms. Bunker. Underground.

1 MS. GEIGER: Ten minutes.

2 MR. IACOPINO: Ms. Widell aboveground  
3 historic?

4 MS. GEIGER: 45 minutes to one hour.

5 MR. IACOPINO: On the Environmental Panel.

6 MS. GEIGER: That would be 45 minutes to an  
7 hour.

8 MR. IACOPINO: On public health and safety,  
9 electromagnetic fields with Dr. Bailey?

10 MS. GEIGER: Five minutes.

11 MR. IACOPINO: Orderly development, tourism  
12 with Mr. Varney?

13 MS. GEIGER: 45 minutes to an hour.

14 MR. IACOPINO: Mr. Chalmers on property  
15 value?

16 MS. GEIGER: 20 to 30 minutes.

17 MR. IACOPINO: And Ms. Shapiro?

18 MS. GEIGER: Five minutes.

19 MR. IACOPINO: Okay. Go on to Counsel for  
20 the Public's witnesses on his Environmental and  
21 Construction witnesses, Whitney and Ladewig?

22 MS. GEIGER: 20 to 30 minutes.

23 MR. IACOPINO: Chris, how does he say that?

24 MR. ASLIN: I think it's Ladewig.

1 MR. IACOPINO: On aesthetics?

2 MS. GEIGER: 30 minutes.

3 MR. IACOPINO: And on historic and  
4 archeological, Ms. O'Donnell for Counsel for the  
5 Public?

6 MS. GEIGER: 45 minutes.

7 MR. IACOPINO: Thank you. Mr. Selig nor  
8 Durham? Durham/UNH?

9 MS. GEIGER: Five minutes.

10 MS. IACOPINO: For the Durham Environmental  
11 Panel? Is there somebody missing from that  
12 panel? Actually, you don't have this so never  
13 mind. I thought there might be. I have Famely,  
14 Schultz, Jones and Dacey. Is there another  
15 witness on that panel? Okay. All right.  
16 Sorry. Ms. Geiger.

17 MS. GEIGER: Ten to 15.

18 MR. IACOPINO: For the Durham Residents?

19 MS. GEIGER: Five.

20 MR. IACOPINO: For Durham Historic?

21 MS. GEIGER: Five.

22 MR. IACOPINO: Mr. Frizzell?

23 MS. GEIGER: 15 to 20.

24 MR. IACOPINO: Ms. Frink?

1 MS. GEIGER: 15 to 20.

2 MR. IACOPINO: And Mr. Baker?

3 MS. GEIGER: Five.

4 MR. IACOPINO: Thank you. Okay. Mr. Irwin  
5 or Ms. Ludke. CLF. Start at the top again.  
6 Mr. Quinlan.

7 MR. IRWIN: Ten minutes.

8 MR. IACOPINO: Mr. Andrew on system needs,  
9 stability.

10 MR. IRWIN: Five minutes.

11 MR. IACOPINO: The Construction Panel for  
12 the Applicant.

13 MR. IRWIN: 60 to 90. Call it 90, to be  
14 safe.

15 MR. IACOPINO: Mr. Cullen, financial  
16 capability.

17 MR. IRWIN: Five to ten.

18 MR. IACOPINO: Mr. Raphael with respect to  
19 visual impacts and aesthetics.

20 MR. IRWIN: 15.

21 MR. IACOPINO: Ms. Bunker, archeological.

22 MR. IRWIN: None.

23 MR. IACOPINO: And Ms. Widell, aboveground  
24 historics.

1 MR. IRWIN: None.

2 MR. IACOPINO: On the Environmental Panel.

3 MR. IRWIN: 90 to be conservative.

4 Probably closer to 60.

5 MR. IACOPINO: Okay. Dr. Bailey with  
6 respect to public health and safety and  
7 electromagnetic fields.

8 MR. IRWIN: None.

9 MR. IACOPINO: Mr. Varney on tourism and  
10 orderly development.

11 MR. IRWIN: 10 to 15.

12 MR. IACOPINO: Property values with  
13 Dr. Chalmers.

14 MR. IRWIN: None.

15 MR. IACOPINO: And Ms. Shapiro on economics  
16 and employment and tax revenue.

17 MR. IRWIN: Five.

18 MR. IACOPINO: Okay. Going to Counsel for  
19 the Public's witnesses now for Mr. Whitney and  
20 Mr. Ladewig, Environmental/Construction.

21 MR. IRWIN: 20 to 30.

22 MR. IACOPINO: On the aesthetic expert,  
23 Mr. Lawrence.

24 MR. IRWIN: Ten.

1 MR. IACOPINO: And on Patricia O'Donnell  
2 for historic and archeological for Counsel for  
3 the Public.

4 MR. IRWIN: None.

5 MR. IACOPINO: Any questions for Mr. Selig  
6 from Durham/UNH.

7 MR. IRWIN: Yes. 20 minutes.

8 MR. IACOPINO: For the Durham/UNH  
9 Environmental Panel.

10 MR. IRWIN: 20 to 30.

11 MR. IACOPINO: For Mr. Hebert.

12 MR. IRWIN: Five to ten.

13 MR. IACOPINO: For the Durham Residents  
14 panel.

15 MR. IRWIN: Ten to 15.

16 MR. IACOPINO: For Durham Historic.

17 MR. IRWIN: None.

18 MR. IACOPINO: Mr. Frizzell.

19 MR. IRWIN: Five.

20 MR. IACOPINO: Ms. Frink.

21 MR. IRWIN: Ten.

22 MR. IACOPINO: And Mr. Baker.

23 MR. IRWIN: 15 to 20.

24 MR. IACOPINO: Okay. Thank you. Okay.

1 We're going to turn to the Durham Residents.

2 Ms. Brown, are you going to speak for them as  
3 well?

4 MS. BROWN: Yes.

5 MR. IACOPINO: Okay.

6 MS. BROWN: For today.

7 MR. IACOPINO: Okay. All right. So let's  
8 start with Mr. Quinlan.

9 MS. BROWN: Mr. Quinlan, ten minutes.  
10 Construction Panel, half hour.

11 MR. IACOPINO: Can I just back you up?  
12 What about -- my list is a little bit different.  
13 So I've got Mr. Quinlan you said ten minutes.  
14 You said 30 minutes for the Construction Panel.  
15 I have in between that Mr. Andrew on system  
16 stability, need for power and reliability.

17 MS. BROWN: Just five minutes. Thank you.

18 MR. IACOPINO: The next one that I have is  
19 Mr. Cullen for financial capability.

20 MS. BROWN: I don't think we're going to  
21 have any for him. Thank you.

22 MR. IACOPINO: Mr. Raphael on visual  
23 impacts and aesthetics?

24 MS. BROWN: 45 minutes.

1 MR. IACOPINO: Okay. Ms. Bunker for  
2 archeological?

3 MS. BROWN: I don't believe we will have  
4 any.

5 MR. IACOPINO: And Ms. Widell for  
6 aboveground historic?

7 MS. BROWN: The same.

8 MR. IACOPINO: And then the Environmental  
9 Panel?

10 MS. BROWN: Environmental Panel, half hour.  
11 I'm sorry. 45 minutes.

12 MR. IACOPINO: On Dr. Bailey with respect  
13 to EMF and public health and safety?

14 MS. BROWN: 45 minutes.

15 MR. IACOPINO: Mr. Varney on orderly  
16 development and tourism?

17 MS. BROWN: Say 15.

18 MR. IACOPINO: Property values with  
19 Dr. Chalmers.

20 MS. BROWN: One hour. Maybe less.

21 MR. IACOPINO: We'll put it down as one.  
22 Again, these are just estimates. And for Ms.  
23 Shapiro?

24 MS. BROWN: I doubt the Durham Residents

1 will have any questions for her.

2 MR. IACOPINO: All right. Moving on for  
3 Counsel for the Public's witnesses, the  
4 Environmental/Construction Panel of Whitney and  
5 Ladewig?

6 MS. BROWN: 15 minutes.

7 MR. IACOPINO: For the aesthetics witness,  
8 Mr. Lawrence?

9 MS. BROWN: 15 minutes.

10 MR. IACOPINO: For Ms. O'Donnell on  
11 historic and archeological?

12 MS. BROWN: I doubt we will have any  
13 questions.

14 MR. IACOPINO: Any questions for Mr. Selig  
15 from Durham?

16 MS. BROWN: 15 minutes.

17 MR. IACOPINO: For the Durham/UNH  
18 Environmental Panel?

19 MS. BROWN: 15 minutes.

20 MR. IACOPINO: Or Mr. Hebert?

21 MS. BROWN: 15.

22 MR. IACOPINO: For the Durham Historic  
23 Association witnesses?

24 MS. BROWN: Five.

1 MR. IACOPINO: For Mr. Frizzell?

2 MS. BROWN: Five.

3 MR. IACOPINO: For Ms. Frink?

4 MS. BROWN: Five. Actually, 15.

5 MR. IACOPINO: And for Fat Dog Shellfish,  
6 Mr. Baker?

7 MS. BROWN: Five minutes.

8 MR. IACOPINO: Thank you.

9 MS. BROWN: Now, I have a question. We  
10 are, the Durham Residents have been grouped  
11 together for presentation. Are we not allowed  
12 to cross-examine our, the separate witnesses  
13 within the Durham Residents? Friendly cross?

14 MR. IACOPINO: Generally not. We'll talk  
15 about that more after. Friendly cross becomes  
16 an issue. We'll talk about that more after we  
17 go through in list of the parties' anticipated.

18 MS. BROWN: Thank you.

19 MR. IACOPINO: Okay. Nobody is here for  
20 Durham Historic. Right? So Mr. Lanzetta, we're  
21 going to turn to you on behalf of Mr. Frizzell.  
22 Going to go through the list.

23 MR. LANZETTA: I may be able to expedite  
24 this for you.

1 MR. IACOPINO: Sure.

2 MR. LANZETTA: We would like to just have  
3 45 minutes with Dr. Chalmers.

4 MR. IACOPINO: Just Dr. Chalmers?

5 MR. LANZETTA: Yes.

6 MR. IACOPINO: Nobody else?

7 MR. LANZETTA: Nobody else.

8 MR. IACOPINO: Okay. Thank you. Ms.  
9 Frink? I'll turn to you now. How much time  
10 will you need with Mr. Quinlan?

11 MS. FRINK: I don't anticipate any  
12 questions of him.

13 MR. IACOPINO: Thank you. For Mr. Andrew  
14 who is the witness with respect to system  
15 stability, reliability and need?

16 MS. FRINK: No questions.

17 MR. IACOPINO: For the Construction Panel  
18 of the Applicant?

19 MS. FRINK: 15 minutes.

20 MR. IACOPINO: Thank you. For Mr. Cullen  
21 on the financial capabilities of the Applicant?

22 MS. FRINK: Five minutes.

23 MR. IACOPINO: For Mr. Raphael, visual  
24 impacts and aesthetics?

1 MS. FRINK: 15 minutes.

2 MR. IACOPINO: For Ms. Bunker,  
3 archeological?

4 MS. FRINK: No questions.

5 MR. IACOPINO: For Ms. Widell, aboveground  
6 historic resources.

7 MR. FRINK: I estimate 30 minutes.

8 MR. IACOPINO: Thank you. For the  
9 Applicant's Environmental Panel?

10 MS. FRINK: 30 minutes.

11 MR. IACOPINO: I'm sorry. I just had to  
12 make a note here.

13 For Dr. Bailey with respect to EMF?

14 MS. FRINK: No questions.

15 MR. IACOPINO: For Mr. Varney on orderly  
16 development and tourism?

17 MS. FRINK: No questions.

18 MR. IACOPINO: For Dr. Chalmers? Property  
19 values?

20 MS. FRINK: Ten minutes.

21 MR. IACOPINO: For Ms. Shapiro on  
22 economics, employment and taxes?

23 MS. FRINK: No questions.

24 MR. IACOPINO: So now turn to Counsel for

1 the Public's witnesses. The  
2 Environmental/Construction Panel, Whitney and  
3 Ladewig?

4 MS. FRINK: No questions.

5 MR. IACOPINO: For Aesthetics?

6 MS. FRINK: Ten minutes.

7 MR. IACOPINO: For Ms. O'Donnell on  
8 historic and archeological?

9 MS. FRINK: 20 minutes.

10 MR. IACOPINO: Turning now to the other  
11 convenience we have Mr. Selig who's going to  
12 testify for Durham/UNH?

13 MS. FRINK: No questions.

14 MR. IACOPINO: For the Durham/UNH  
15 Environmental Panel?

16 MS. FRINK: No questions.

17 MR. IACOPINO: For Mr. Hebert?

18 MS. FRINK: No questions.

19 MR. IACOPINO: For the Durham Residents?

20 MS. FRINK: No questions.

21 MR. IACOPINO: For the Durham Historic  
22 Association witnesses, Sandberg and Mackie?

23 MS. FRINK: 15 minutes.

24 MR. IACOPINO: For Mr. Frizzell?

1 MS. FRINK: No questions.

2 MR. IACOPINO: And for Mr. Baker?

3 MS. FRINK: No questions.

4 MR. IACOPINO: Thank you. Okay. So now  
5 Nature Conservancy is not here.

6 All right. Mr. Richardson, turning to you.  
7 I'm going to go through the same list.  
8 Mr. Quinlan?

9 MR. RICHARDSON: He's electric need or  
10 electric liability?

11 MR. IACOPINO: He's the President of the  
12 company. He's going to testify about the  
13 background of the project, the need and  
14 alternatives that they considered?

15 MR. RICHARDSON: I don't anticipate  
16 questions for him.

17 MR. IACOPINO: Mr. Andrew is system  
18 stability, reliability and need?

19 MR. RICHARDSON: I don't anticipate any  
20 questions for him.

21 MR. IACOPINO: Construction Panel?

22 MR. RICHARDSON: We're looking at an hour.  
23 It's hard to say though because I think we're  
24 going to be last in the order so many of our

1 questions will probably be covered so I'm kind  
2 of saying knowing that before.

3 MR. IACOPINO: Give me your most  
4 conservative meaning the longest is you might  
5 expect, and we'll work with that.

6 MR. RICHARDSON: One hour.

7 MR. IACOPINO: Mr. Cullen on financial  
8 capability.

9 MR. RICHARDSON: Probably maximum of 5  
10 minutes.

11 MR. IACOPINO: Mr. Raphael with respect to  
12 visual impacts and aesthetics?

13 MR. RICHARDSON: Having seen him testify  
14 before, I'm going to say one hour.

15 MR. IACOPINO: Ms. Bunker, archeological  
16 issues?

17 MR. RICHARDSON: No questions.

18 MR. IACOPINO: For Ms. Widell, Applicant's  
19 aboveground historic expert?

20 MR. RICHARDSON: No questions.

21 MR. IACOPINO: The Environmental Panel?

22 MR. RICHARDSON: One hour is probably the  
23 maximum.

24 MR. IACOPINO: For Dr. Bailey on the EMFs

1 and public health?

2 MR. RICHARDSON: No questions.

3 MR. IACOPINO: For Mr. Varney. He's  
4 orderly development.

5 MR. RICHARDSON: No, no, no. I wrote him  
6 down. I want to say what I wrote down. 30  
7 minutes.

8 MR. IACOPINO: And for Dr. Chalmers on  
9 property values?

10 MR. RICHARDSON: 15 minutes.

11 MR. IACOPINO: And for Dr. Shapiro,  
12 economics, employment and taxes?

13 MR. RICHARDSON: No questions.

14 MR. IACOPINO: Okay. Turning to Counsel  
15 for the Public's witnesses, Mr. Whitney and  
16 Ladewig, Construction and Environmental?

17 MR. RICHARDSON: Maximum of 30 minutes,  
18 probably less. I think on that witness, and  
19 this is something we haven't talked about, when  
20 we get to, I don't want to say friendly  
21 witnesses but for lack of a better word friendly  
22 witnesses, we're probably reversing the order of  
23 cross so the Applicant goes last.

24 MR. IACOPINO: Correct.

1 MR. RICHARDSON: And then the Towns would  
2 be going before me, on some of the Applicant's  
3 witnesses, the towns would be coming after me.  
4 So we'd basically be the first witness  
5 questioning so that's -- so that was.

6 MR. IACOPINO: I don't know if you're  
7 first, but I understand what you're saying.

8 MR. RICHARDSON: Yes.

9 MR. IACOPINO: So 30 minutes with that  
10 Panel though?

11 MR. RICHARDSON: Yes.

12 MR. IACOPINO: Okay. Counsel for the  
13 Public's aesthetics, Mr. Lawrence?

14 MR. RICHARDSON: Five or ten minutes.

15 MR. IACOPINO: And for Ms. O'Donnell on  
16 historic and archeological?

17 MR. RICHARDSON: No questions.

18 MR. IACOPINO: For Mr. Selig from Durham?  
19 Town Administrator in Durham?

20 MR. RICHARDSON: No questions.

21 MR. IACOPINO: For the Durham Environmental  
22 Panel? Durham/UNH Environmental Panel? That's  
23 the one with Dr. Jones.

24 MR. RICHARDSON: I think 15 minutes would

1 be the maximum.

2 MR. IACOPINO: For Mr. Hebert?

3 MR. RICHARDSON: 30 minutes.

4 MR. IACOPINO: I'm expecting a biting  
5 cross-examination.

6 MR. RICHARDSON: Denis and I, as you know,  
7 served on the Planning Board together and our  
8 discussions always, we don't think alike on the  
9 issues so sometimes even when we agree it takes  
10 us a while to get there.

11 MR. IACOPINO: How about for the Durham  
12 Residents panel?

13 MR. RICHARDSON: I don't anticipate  
14 questions.

15 MR. IACOPINO: And for the Durham Historic  
16 witnesses, Sandberg and Mackie?

17 MR. RICHARDSON: No questions.

18 MR. IACOPINO: For Mr. Frizzell?

19 MR. RICHARDSON: No questions.

20 MR. IACOPINO: For Ms. Frink?

21 MR. RICHARDSON: No questions. And for Fat  
22 Dog Shellfish, Mr. Baker?

23 MR. RICHARDSON: Can I say unknown? I  
24 don't anticipate any at this time so that's

1 fine.

2 MR. IACOPINO: All right. That's fine. As  
3 I said before, if it changes, it changes, and  
4 we'll deal with it at the time. Okay. So I  
5 think, is there any Intervenors that I haven't  
6 asked? Okay.

7 Going to turn to the Applicant now and  
8 start with Counsel for the Public's witnesses.  
9 Mr. Needleman or who ever is going to answer for  
10 the Applicant, with respect to the  
11 Whitney/Ladewig panel? How much time do you  
12 expect to spend with them?

13 MR. NEEDLEMAN: That's ESS, right?

14 MR. IACOPINO: Yes.

15 MR. NEEDLEMAN: One hour.

16 MR. IACOPINO: For the aesthetics witness,  
17 Mr. Lawrence?

18 MR. NEEDLEMAN: One hour.

19 MR. IACOPINO: For Ms. O'Donnell on  
20 historic and archeological?

21 MR. NEEDLEMAN: 1.5.

22 MR. IACOPINO: For Mr. Selig, the  
23 Administrator in Durham?

24 MR. NEEDLEMAN: One hour.

1 MR. IACOPINO: For the Durham Environmental  
2 Panel?

3 MR. NEEDLEMAN: 1.5.

4 MR. IACOPINO: For Mr. Hebert?

5 MR. NEEDLEMAN: 1.5.

6 MR. IACOPINO: For the Durham Residents  
7 panel?

8 MR. NEEDLEMAN: That's the Durham Point  
9 Abutters?

10 MR. IACOPINO: Yes. We've been calling  
11 them Durham Residents.

12 MR. NEEDLEMAN: One hour.

13 MR. IACOPINO: For Sandberg and Mackie for  
14 the Durham Historic Association?

15 MR. NEEDLEMAN: One hour.

16 MR. IACOPINO: For Mr. Frizzell?

17 MR. NEEDLEMAN: I included Mr. Frizzell  
18 within the Durham Point Abutters, I guess.

19 ADMINISTRATOR MONROE: He's in Newington.

20 MR. NEEDLEMAN: Right. I'm sorry. 15 for  
21 now.

22 MR. IACOPINO: Minutes.

23 MR. NEEDLEMAN: Yes.

24 MR. IACOPINO: For Ms. Frink?

1 MR. NEEDLEMAN: 30 minutes.

2 MR. IACOPINO: And for Mr. Baker?

3 MR. NEEDLEMAN: 30 minutes.

4 MR. IACOPINO: We're going to take a  
5 ten-minute break. We'll go off the record.  
6 We'll come back at 20 minutes of 11.

7 (Recess taken 10:29 - 11:04 a.m.)

8 MR. IACOPINO: Everyone is here. We'll go  
9 back on the record.

10 Mr. Needleman, I understand you did a  
11 calculation of the expected examinations and  
12 have something to report.

13 MR. NEEDLEMAN: Yes. So at the break what  
14 I tried to do was add up all of the estimates  
15 that everybody provided with respect to the  
16 Applicant's witnesses, and I came to, using the  
17 conservative ranges of each estimate, about 34  
18 to 35 hours of cross, and then I assumed about 7  
19 hours per day of actual testimony time, and so  
20 that gave me about five days of cross for our  
21 witnesses. I then assumed maybe, it's always  
22 hard to predict, but maybe adding in another  
23 full day for Committee questions that might  
24 relate to our witnesses gives me a ballpark of

1 about six days for the Applicant to present its  
2 case.

3 The way we had our witnesses laid out right  
4 now we were estimating 7 days, the 29th and the  
5 30th of August and then September 17, 18, 20, 21  
6 and 24. So we all know that these things never  
7 really go as planned, but it seems as though  
8 it's pretty reasonable to assume that we could  
9 get our case done by the 24th, and as I  
10 mentioned earlier, the one issue it presents is  
11 that we have challenges with availability of  
12 some witnesses at some times and so we'll always  
13 do our best to try to fill gaps and keep things  
14 moving, but that may not always be possible if  
15 things proceed the way it looks like they will  
16 here.

17 MR. IACOPINO: And this goes for everybody.  
18 To the extent you see an issue arising with  
19 respect to your witnesses, whether the  
20 proceeding's lasting longer than you anticipated  
21 or it's going faster than you anticipated and  
22 you see that when we get to your witnesses there  
23 might be an issue of availability, please  
24 address it right away, as soon as you have an

1 inkling that it may cause a problem for two  
2 reasons. Number one, to give everybody fair  
3 notice that there may be a change or their  
4 witness is going to be called sooner than  
5 anticipated or later than anticipated. And also  
6 for the Committee and staff so we know maybe  
7 that there are gaps when we're not actually  
8 meeting and everybody can use those gaps for  
9 whatever they need them to be, if that happens.  
10 We prefer not to have gaps. We prefer to have  
11 everything go like clockwork. And I know with  
12 all of your hard work that will happen.

13 But we understand. Appreciate the  
14 calculations, Mr. Needleman. And again, for you  
15 and for everybody, as soon as you have an issue,  
16 as soon as you see an issue that the schedule  
17 may be running sooner or later and it may cause  
18 a scheduling problem, let's let everybody know,  
19 and you can do that through Ms. Monroe, myself,  
20 and amongst yourselves. Please don't be afraid  
21 to talk to each other.

22 Okay. That being understood, I just want  
23 to go through what I understand the order of the  
24 examinations are going to be. When the

1 Applicant's witnesses are up, the order is going  
2 to be we're going to start with the town of  
3 Durham/UNH, followed by the Town of Newington,  
4 followed by Conservation Law Foundation,  
5 followed by the Durham Residents, followed by  
6 Mr. Frizzell who has very little, actually only  
7 one witness, followed by Ms. Frink. Is the  
8 Nature Conservancy going to be involved or not?

9 ADMINISTRATOR MONROE: You missed Durham  
10 Historic.

11 MR. IACOPINO: I'm sorry. Durham Historic  
12 will go before Mr. Frizzell. Then Mr. Frizzell.  
13 Then Ms. Frink. Mr. Baker. And then the Nature  
14 Conservancy and then the Crowley Joyce Revocable  
15 Trust followed by Counsel for the Public battling  
16 cleanup.

17 And then what would happen is with respect  
18 to each, for instance, when we then move to  
19 Counsel for the Public's witnesses, Counsel for  
20 the Public obviously would not be  
21 cross-examining its own witnesses so that order  
22 will go in the same order, just eliminate the  
23 party who's calling the particular panel. And  
24 that would be the same as we go through each of

1 these.

2 MR. PATCH: And put the Applicant in as  
3 last, right?

4 MR. IACOPINO: Well, just before Counsel  
5 for the Public. Right? You want to go last for  
6 everybody, right?

7 MR. ASLIN: I don't think the rule  
8 specifies that so --

9 MR. IACOPINO: I don't even know we had the  
10 rule.

11 MR. ASLIN: The rule says order of inquiry  
12 is Applicants, Intervenors and then Counsel for  
13 the Public, 202.20.

14 MR. IACOPINO: I have to go to my rules  
15 expert here. I know it's the way we've done it,  
16 but you've raised this before so --

17 MR. ASLIN: It says the order shall be the  
18 Applicant or other party bearing the overall  
19 burden of proof, then Intervenors and Counsel  
20 for the Public.

21 MR. NEEDLEMAN: For overall presentation of  
22 witnesses.

23 MR. IACOPINO: Yes, that's the  
24 presentation, right?

1 MR. ASLIN: Says evidence shall be offered  
2 in the following order. Yes.

3 MR. IACOPINO: Well, yes. The Applicant  
4 will go last with respect to the adverse  
5 parties. Other parties. And I guess that puts  
6 you second to last.

7 MR. ASLIN: Except for my witnesses, yes.

8 MR. IACOPINO: Right. Okay. So not seeing  
9 or hearing any objection to that, okay. All  
10 right.

11 There was a question just, I don't know if  
12 it was just before or just after we broke, Ms.  
13 Brown asked about cross-examination within  
14 panels, and I assume what you mean is like, for  
15 instance, having Ms. Miller cross-examine Regis  
16 Miller and examination like that amongst the  
17 individuals in the panel? Is that what you were  
18 inquiring about?

19 MS. BROWN: Yes. If the Durham Residents  
20 themselves had questions of each other, I didn't  
21 know how that would work because, I mean, there  
22 are individual, I mean, I've got Donna Heald as  
23 a client. The Millers aren't my client.

24 MR. IACOPINO: Right, but they were all

1 combined for purposes of presentation of  
2 evidence, argument and cross-examination and  
3 other participation.

4 MS. BROWN: So I just wanted to make sure,  
5 a clarification to what extent. So you're  
6 reading it broadly, and that answers my  
7 question.

8 MR. IACOPINO: Right. So we're not going  
9 to have them questioning each other within the  
10 Panel. And that's based on, that quote, by the  
11 way, was from the intervention order that was  
12 issued back on --

13 MS. BROWN: Yes. I've seen the order.  
14 Thank you.

15 MR. IACOPINO: -- August 24th, 2016. Okay.  
16 Spokespersons. We need to understand who  
17 is going to be the spokesperson for the Durham  
18 Residents. Is that going to be you, Ms. Brown?

19 MS. BROWN: I think we had it as is Vivian  
20 Miller was the spokesperson, but that doesn't  
21 mean that counsel for some of the participants  
22 within that group can't speak; is that correct?

23 MR. IACOPINO: Generally. I mean,  
24 generally when somebody has a question or has an

1 argument to make, but we don't want to be in the  
2 middle of the proceeding and trying to figure  
3 out, okay, you know, now the group's breaking  
4 up. Durham Residents who are combined as a  
5 group for intervention purposes. Generally that  
6 means that one person from the group will do the  
7 cross-examination of witnesses, not all of them,  
8 you can have like, for instance, you might  
9 assign somebody to do Environmental, assign  
10 somebody else from the group, but it's one  
11 person. It's not everybody in the group gets to  
12 ask their own questions of each witness. But we  
13 also generally like to know who we turn to to  
14 get the answers to those questions, and that's  
15 who we generally have designated as a  
16 spokesperson.

17 MS. BROWN: As you saw today, functionally,  
18 the residents that are here were turning to me  
19 so I guess that would be default me.

20 MR. IACOPINO: And we appreciate having a  
21 lawyer do it because sometimes lawyers  
22 understand better. When I start talking like a  
23 lawyer or when certain members of the panel  
24 start talking like a lawyer, they understand it

1 better.

2 MS. BROWN: I was just trying to keep the  
3 wall between my client and who is not my client  
4 and the spokesperson can functionally muddle it  
5 so as long as we're all clear.

6 MR. IACOPINO: Okay. Thank you. All  
7 right. Before we move on to exhibits, there was  
8 Ms. Geiger raised an issue with respect to  
9 Mr. Weinrieb and having, Mr. Hebert is going to  
10 adopt, you anticipate to have him adopt  
11 Mr. Weinrieb's testimony. Does anybody in the  
12 room object to that?

13 MR. NEEDLEMAN: Well, I'm not sure. I  
14 guess I'd like a clarification. If the  
15 Applicant and Newington agree that all of the  
16 issues in Mr. Weinrieb's testimony has been  
17 addressed by the MOU, why is it necessary to  
18 keep that testimony in the case?

19 MR. IACOPINO: Ms. Geiger?

20 MS. GEIGER: Well, we wanted to keep it in  
21 the record to give the Committee a basis for  
22 understanding what the Town's position was prior  
23 to the MOU and then the fact that those issues,  
24 if you will, have been resolved. So we wanted

1 to connect the dots back from the statements in  
2 the MOU back to the original concerns that the  
3 Town had. That's all.

4 MR. IACOPINO: Did anybody else want to  
5 discuss that? Mr. Aslin? Any issues?

6 MR. ASLIN: I have no issues.

7 MR. IACOPINO: That's her response. Do you  
8 object?

9 MR. NEEDLEMAN: No. I don't think we'll  
10 object.

11 MR. IACOPINO: Okay. Thank you. All  
12 right. One other question for the Applicant. We  
13 have the pending motion for the delay. Do you  
14 know when you will be filing a written  
15 objection?

16 MR. NEEDLEMAN: Best estimate is Monday.  
17 If we can do it sooner, we will, but, like I  
18 said, I haven't even talked to my client yet  
19 about it.

20 I had one other question.

21 MR. IACOPINO: Sure.

22 MR. NEEDLEMAN: I don't know if you were  
23 going to get to it.

24 It would be helpful for us to have

1 something definitive about the order of  
2 presentation of all the other witnesses; in  
3 particular, whether Counsel for the Public is  
4 going to go first or last.

5 MR. IACOPINO: I think he intends to go  
6 last.

7 MR. ASLIN: I think that's what the rules  
8 contemplate, but I can be flexible on order of  
9 witnesses.

10 MR. NEEDLEMAN: That's fine.

11 MR. IACOPINO: Let's hold off for one  
12 second, and let me just make sure the rest of my  
13 checklist is done, and then we'll address the  
14 order of presentation.

15 So let me throw this out there. Is there  
16 any objection to doing it in the same order that  
17 we do the examination? So that would be once  
18 the Applicant is completed the presentation of  
19 all its witnesses, we would then proceed to the  
20 Town of Durham/UNH, followed by the Town of  
21 Newington. CLF doesn't have any witnesses,  
22 right?

23 MR. IRWIN: Correct.

24 MR. IACOPINO: Followed by the Durham

1 Residents, followed by Mr. Frizzell, Ms. Frink,  
2 Nature Conservancy and Crowley Trust. I keep  
3 skipping the Durham Historic. I'm going to do  
4 that again.

5 Town of Durham/UNH, followed by Newington,  
6 followed by Durham Residents, followed by the  
7 Durham Historic Society, followed by  
8 Mr. Frizzell, followed by Ms. Frink, followed by  
9 Mr. Baker, followed by the Nature Conservancy.

10 ADMINISTRATOR MONROE: They don't have any  
11 witnesses either.

12 MR. IACOPINO: They don't have anything to  
13 present. Followed by the Crowley Trust.

14 ADMINISTRATOR MONROE: They don't have --  
15 they weren't allowed witnesses.

16 MR. IACOPINO: So last but not least,  
17 Counsel for the Public. Does anybody have any  
18 objection to that order? Mr. Patch.

19 MR. PATCH: I don't have an objection, but  
20 I think part of what we were supposed to do  
21 today was to come in and talk about potential  
22 scheduling conflicts for our witnesses, and so I  
23 can give you those now.

24 I think based on what I've heard so far,

1 the conflicts that Mr. Selig has and at least a  
2 few members of our panel are all in September,  
3 but so in the event that we were to go according  
4 to what Mr. Needleman said this morning, I think  
5 we would be fine. But just so you know,  
6 Mr. Selig is unavailable after 2 p.m. on  
7 September 18th. I sent an email about this back  
8 in June. I'm not available on September 20, 21  
9 or 24.

10 In terms of the panel, Mr. Jones is  
11 unavailable between September 17 and the 21st.  
12 And then Mr. Famely has a conflict on the  
13 afternoon of the 20th.

14 MR. IACOPINO: Is that it for your  
15 witnesses?

16 MR. PATCH: That's it other than that he  
17 mentioned August 29th and 30th as potential  
18 conflict, but that doesn't seem to come into  
19 play.

20 MR. IACOPINO: Which witness? On August  
21 29th and 30th? I understand it's probably going  
22 to be in the Applicant's case at that point.

23 MR. PATCH: Famely and Schultz on the 29th,  
24 Famely also on the 30th, and then Jones

1 September 17 to 21. And then Selig after 2 p.m.  
2 on the 18th and unavailable on the 20, 21st or  
3 24th. And then the afternoon of the 20th is  
4 Family. Those were all the conflicts.

5 ADMINISTRATOR MONROE: So we may have, the  
6 24th of September would be when we'd start the  
7 Intervenors' witnesses.

8 MR. PATCH: So we could start with the  
9 panel that day, but we couldn't start with Mr.  
10 Selig.

11 MS. MONROE: Perhaps Mr. Hebert could go on  
12 his vacation if he testified on the 24th?

13 MS. GEIGER: Of September. Yes, that's  
14 true. Mr. Hebert based his vacation on the  
15 original schedule that was issued by the  
16 Committee that did not include the October  
17 hearing dates. So he is in a position right now  
18 of having to forfeit some money to make  
19 arrangements to be here in October. If he could  
20 avoid that, I think he would appreciate it.

21 MR. IACOPINO: So what are the dates he's  
22 not available?

23 MR. HEBERT: I'm gone October 10th to the  
24 22nd. What I'm trying to resolve, I've been on

1 this for five years now and to not be here for  
2 the final thing is crazy, but I'm trying to  
3 resolve that in my mind. I was trying to find  
4 out what we're doing today and what we're going  
5 to do, and I'm going to make a determination at  
6 the end of the day with my significant other  
7 what we're going to do.

8 MR. IACOPINO: Okay. Thank you.

9 MR. PATCH: Just to note for the record, we  
10 have no objection for Mr. Hebert going first  
11 before Durham and UNH so --

12 MR. IACOPINO: You want to just agree to  
13 that now? Does anybody have any objection to  
14 that? If we switch that order and put Newington  
15 ahead of Durham?

16 MR. NEEDLEMAN: That's fine with us.

17 MR. IACOPINO: Does anybody object to that?

18 (No verbal response.)

19 MR. IACOPINO: So we'll write up the report  
20 from this hearing with Newington going first  
21 followed by Durham/UNH as far as order of  
22 presentation goes.

23 And then if we started and finished with  
24 Mr. Hebert on the 24th, Mr. Patch, you could

1 start with your Construction Panel after  
2 Mr. Hebert on that day?

3 MR. PATCH: Yes.

4 MR. ASLIN: I also have one scheduling  
5 issue which is Ms. O'Donnell is not available on  
6 the 17th of October, the last day that's  
7 scheduled. So depending on how things are  
8 moving along, that could become an issue, but I  
9 can have her go first for Counsel for the Public  
10 witnesses to try and avoid that date.

11 MR. IACOPINO: Any other? Ms. Frink?

12 MS. FRINK: On September 20th, I will not  
13 be available. If I could complete my questions  
14 for the Environmental Panel on the 18th, that  
15 would be fine.

16 MR. IACOPINO: Okay. So that will likely  
17 require, it may require that you ask on that  
18 day, and we move you during the course of the  
19 day.

20 MR. FRINK: Very good. Thank you.

21 MR. IACOPINO: Okay? But I did make a note  
22 of it, but don't forget to ask that day because  
23 things will start to roll, and I'll forget.

24 MR. FRINK: That's fine.

1 MR. IACOPINO: Okay. Thank you. Anybody  
2 else have any known scheduling problems? Mr.  
3 Lanzetta?

4 MR. LANZETTA: Mr. Frizzell has conflicts  
5 for the 29th and 30th and the 21st and 24th.

6 MR. IACOPINO: August?

7 MR. LANZETTA: August 29 and 30 and  
8 September 21 and 24th.

9 MR. IACOPINO: Okay. Thank you. While Pam  
10 is scanning our calendar here, does anybody else  
11 have any scheduling conflict that they're aware  
12 of at this point in time? Okay.

13 ADMINISTRATOR MONROE: I think  
14 Mr. Frizzell, yes, I think that's okay because I  
15 think if all goes according to plan, which it  
16 never does, September 24th we would have  
17 Mr. Hebert and then we follow with the  
18 Durham/UNH Environmental/Construction Panel, and  
19 I would suggest that the Durham Residents be  
20 available in the event things move a little  
21 quicker on the 24th.

22 MR. ASLIN: Pam, will you be issuing kind  
23 of daily status updates as you did for other  
24 proceedings?

1 ADMINISTRATOR MONROE: I can do that, sure.

2 MR. ASLIN: Just to give people a heads-up  
3 on where we are and where we're headed.

4 I'll also ask the horrifying question of  
5 what happens if we can't complete the  
6 examination of witnesses within the 10 days that  
7 we have scheduled, would the expectation be that  
8 the deliberation days would be used for hearing  
9 days? And should people plan on securing  
10 witnesses, if needed, on those days? I don't  
11 want to be there, but I've got to ask.

12 MR. IACOPINO: I think the best answer to  
13 that question is if it looks like we're going to  
14 exhaust all those days and not be finished,  
15 there's going to be a canvass of the Committee  
16 and try to find other days, not counting those  
17 deliberation days, but if we get pushed all way  
18 out to the deliberation days, we'll be pushed  
19 out to them. I mean, there's only so many hours  
20 in a day.

21 MR. ASLIN: If we do bleed over into those  
22 days, it's going to have to push deliberations  
23 out.

24 MR. IACOPINO: Everybody would prefer not

1 to.

2 ADMINISTRATOR MONROE: Do you see the look  
3 of horror on my face?

4 MR. IACOPINO: But at least based upon the  
5 initial, that shouldn't be an issue based upon  
6 these initial estimates anyway.

7 ADMINISTRATOR MONROE: It might be a good  
8 idea to plug Ms. O'Donnell in, you know, a  
9 morning of a day so that we get her scheduled  
10 and work around her.

11 MR. IACOPINO: For everybody who has  
12 witnesses that have an issue and you see that  
13 there is, that there may be a place where you  
14 can make things run smoother by maybe having  
15 that witness come on a different day, don't be  
16 afraid to, first of all, talk with each other  
17 about it, and to raise the issue with the Chair.  
18 So that, I mean, everybody wants things to go as  
19 smooth as possible with everybody being heard as  
20 competently and as prepared as possible.

21 All right. I guess we're going to move on  
22 to exhibits at this point.

23 Oh, that's right. Friendly cross.  
24 Oftentimes we get concerns raised and questions

1 asked about friendly cross. That is,  
2 essentially, cross-examination of witnesses by  
3 parties who share similar interests. The  
4 official view that has been expressed by the  
5 Committee in the past is that friendly cross is  
6 frowned upon. It doesn't mean that it won't be  
7 allowed to any degree, but we ask you to please  
8 not use it as a strategy. We ask you to  
9 remember that oftentimes friendly cross just  
10 leads to repetition and what's already in the  
11 Direct Testimony, and that will likely not be  
12 allowed.

13 If there is, of course, cross-examination  
14 that expounds or clears something up, that's  
15 appreciated, but if it's merely just to repeat  
16 using different words the same thing that folks  
17 have already testified in their Direct  
18 Testimony, please don't do it. Anything else  
19 you want to mention?

20 MR. ASLIN: Mike, on a related topic?

21 MR. IACOPINO: Yes, sir.

22 MR. ASLIN: Direct exam of witnesses for  
23 the Intervenors and Counsel for the Public, they  
24 have not yet had an opportunity to respond to

1 Supplemental Testimony. The Applicant's  
2 witnesses had that week where they got to  
3 respond to the other parties' Supplemental  
4 Testimony. Is it anticipated that some limited  
5 direct to address new issues that were raised in  
6 supplemental would be allowed?

7 MR. IACOPINO: Limited direct regarding new  
8 issues is generally allowed. Also sometimes  
9 there have been changes that need to be  
10 addressed before everybody starts asking  
11 questions about something that's changed. So  
12 there is some leeway given on direct. And of  
13 course, the party also has the opportunity to  
14 redirect and to the extent that the issues are  
15 raised in cross-examination or they sort of  
16 cross over or whatever, there's also that  
17 opportunity as well.

18 But if you have something, the best way to  
19 deal with it, because it's actually helpful to  
20 the Committee as well because you're  
21 telegraphing, saying, you know, did you have  
22 some testimony to respond to what was said by  
23 so-and-so. We know what you're getting at, it  
24 gives a marker for the Committee who will be

1 sitting up her listening and not talking during  
2 that period of time. So it's helpful that you  
3 sort of highlight it and give us road signs as  
4 we go through it.

5 MR. NEEDLEMAN: I want to note that I do  
6 have a concern about that. I understand that  
7 maybe for unusual reasons it was allowed in  
8 Northern Pass. I think there were problems with  
9 it. That same issue came up in the Antrim Wind  
10 docket with respect to Counsel for the Public's  
11 aesthetics expert. We objected there, and it  
12 wasn't allowed. So this is still an issue that  
13 when it comes up, we may want to be heard on it.

14 MR. IACOPINO: Right. But just to make  
15 sure, in Antrim Wind what was not allowed was  
16 entirely new testimony. It wasn't really, I  
17 mean, I think that Counsel for the Public in  
18 that case tried to categorize it as responsive,  
19 but it really wasn't, and there had been ample  
20 opportunity for her to address it prior to when  
21 she tried to present it. At least, that's my  
22 recollection of it.

23 MR. NEEDLEMAN: I think it was specifically  
24 to address the same thing, things that had come

1 up. So we can both go back and look at it, but  
2 that's my concern.

3 MR. IACOPINO: It will be limited. I can  
4 tell you that. Ms. Geiger?

5 MS. GEIGER: What is the Committee's  
6 reference about having witnesses either  
7 summarize or dispense with summarizing their  
8 Prefiled Testimony? I know in some cases,  
9 Committees have just limited direct examination  
10 to swearing the witness and having them adopt  
11 their testimony under oath, and then making the  
12 witness available for cross-examination. But I  
13 don't know what this particular Panel's  
14 preference is with respect to hearing a short or  
15 brief summary from the witness themselves  
16 orally.

17 MR. IACOPINO: I can't speak for every  
18 member of the Subcommittee. I don't know, I  
19 really haven't had that conversation with the  
20 Chair either. Generally, I think what we expect  
21 is that you're going to swear the witness in,  
22 have them introduce themselves and then submit  
23 them for cross-examination. We really don't  
24 need a summary of the testimony. The Committee

1 has read that testimony, and they're ready to  
2 hear the cross-examination.

3 MS. GEIGER: Thank you.

4 MR. IACOPINO: But obviously, again, if  
5 something has changed or something it turns out  
6 needs to be clarified, you know, then ask. Best  
7 thing to do is ask to do it. If there's  
8 something, if you think you need -- for  
9 instance, Ms. Geiger, if you put your witness up  
10 there, and you think there's a need for that  
11 witness to summarize some aspect of the  
12 testimony, ask for permission and Ms. Weathersby  
13 will make a determination as to whether it's  
14 necessary or not or whether it should be  
15 allowed. I don't know if "necessary" will be  
16 the standard, but -- any other questions  
17 regarding conduct of the adjudicative  
18 proceedings themselves? Okay.

19 Let's move on to exhibits then. We had  
20 asked for -- let me just explain something is  
21 that as you all are aware, there's a lot of  
22 paper in this case. Most of the Subcommittee  
23 members will be sitting here with a computer.  
24 They will be using the computer to look at

1 exhibits. We're going to be -- we're going to  
2 over there, right?

3 ADMINISTRATOR MONROE: Yes. We'll be at  
4 Donovan Street for hearings and deliberations.

5 MR. IACOPINO: We'll be at Donovan Street  
6 for these hearings, but I don't think we have  
7 the same setup there as we had before.

8 ADMINISTRATOR MONROE: Right, but that's  
9 why I asked them to bring the thumb drives  
10 because my plan is I would have those available  
11 for the Committee.

12 MR. IACOPINO: The Committee members are  
13 likely to be looking at exhibits on the computer  
14 that's sitting in front of them. That's why we  
15 ask for them to be electronic, and my apologies  
16 to Ms. Frink because when she asked me I gave  
17 her totally wrong advice. Luckily, Ms. Monroe  
18 corrected me, and we got it straightened out.  
19 But that's why we ask for them to be on the  
20 thumb drive.

21 It's also helpful to have a list because  
22 what we're going to do is we're going to take  
23 your list, we're going to turn them into a  
24 master list that will be available to everybody

1 and just makes it easier to organize the record.

2 So that's why we've asked and so far how are we  
3 doing?

4 ADMINISTRATOR MONROE: I don't have the  
5 Durham Residents'.

6 MS. BROWN: That's correct. We were going  
7 to, we have a handwritten version. We did not  
8 get together prior, sufficient time prior to  
9 today's prehearing to get the list completed,  
10 but it is essentially just the Testimonies and  
11 Supplemental Testimonies and with a few  
12 discovery responses.

13 ADMINISTRATOR MONROE: So will you provide  
14 those to me marked?

15 MS. BROWN: Can we have until Friday to  
16 provide those to the parties and to the  
17 Committee?

18 MR. IACOPINO: Will that work for you?

19 ADMINISTRATOR MONROE: Yes, I'll make it  
20 work.

21 MS. BROWN: Thank you.

22 MR. IACOPINO: Tom.

23 MR. IRWIN: Thank you. Two questions.

24 First with respect to the Donovan Street setup.

1 I understand during the Northern Pass  
2 proceedings there was an ELMO available for use.

3 Is that, will that not be the case?

4 ADMINISTRATOR MONROE: That's my  
5 understanding. It will not.

6 MR. IRWIN: Okay. So that does mean the  
7 witness panel will also have a computer in front  
8 of them and then exhibits will be flashed up on  
9 their screens or should we plan on having hard  
10 copies and sharing as necessary with witnesses?

11 MR. IACOPINO: I would recommend that you  
12 have a hard copy.

13 MR. IRWIN: Okay. Thank you.

14 MR. IACOPINO: Actually, even when we used  
15 the ELMO on the other things, I always recommend  
16 you bring an extra hard copy anyway because  
17 sometimes those things don't work.

18 MR. PATCH: If there's a panel of six, how  
19 many hard copies do we have to bring?

20 MR. IACOPINO: It's up to you. I would  
21 prefer that you had six and make everything run  
22 smoother, but if you want to have them pass it  
23 up and down, it's up to you. I suppose you  
24 could have a reason why you might want to show

1 it to one person on a panel and not to another,  
2 but I mean, it's probably easier if you have  
3 enough for everybody.

4 MR. RICHARDSON: Mike, doesn't that create  
5 problems when you ask a witness to mark  
6 something so you'd have six witness copies, you  
7 might have six different witnesses all marking  
8 them? I think if you only have one copy and a  
9 witness marks it, then your record is pretty  
10 unclear.

11 MR. IACOPINO: We're asking you to premark  
12 your exhibits, but to the extent that something  
13 gets marked up during the course of somebody's  
14 cross-examination or testimony, it's going to be  
15 up to the person who is doing the  
16 cross-examination to make their record; and if  
17 that means that you have to then create six  
18 exhibits and call them Exhibit 100 A, B, C, D,  
19 E, F, G, or 100.1, 100.2, that's the way to do  
20 it. I can't try your case for you. You're  
21 going to have to do it in a manner --

22 MR. RICHARDSON: Right. But I was thinking  
23 like in Superior Court, the copy that the  
24 witness had would be the actual exhibit.

1 Sometimes you give a courtesy copy to the judge  
2 or the clerk, but the stenographer at the end of  
3 the day holds the witness's copy and keeps that  
4 for the record. So that's, I'm assuming that's  
5 kind of what the Committee does, although I'm  
6 not sure it's consistently followed.

7 MR. IACOPINO: Yes. No, we basically  
8 follow that. If there's something that's marked  
9 up, and you want what was marked up to become an  
10 exhibit, and I'm asking you didn't anticipate it  
11 to be an exhibit beforehand so you didn't  
12 premark it, you would ask that it be marked and  
13 entered into the record.

14 MR. RICHARDSON: Yes. Okay.

15 My question that I did have relates to the  
16 exhibits and have we all exchanged them now  
17 because I only have one drive here. I don't  
18 know what other parties have, and I've been  
19 printing out all the testimony and we have that,  
20 but what I don't have is discovery requests  
21 responses which I think people are marking. So  
22 how is that going to work?

23 MR. IACOPINO: Well, You should certainly,  
24 everybody should be exchanging their witness

1 lists with everybody as well as your exhibits.  
2 Now, obviously some of the exhibits everybody  
3 may have already. You may come to an agreement  
4 with another party that these are my exhibits,  
5 but you already have these, I don't need to make  
6 another copy of somebody's testimony for you.

7 But to the extent the exhibits are not  
8 something that's already been distributed,  
9 please make sure that you've provided copies to  
10 everybody. And I understand that sometimes as  
11 part of cross-examination you come in with new  
12 exhibits that weren't premarked. The reason why  
13 we like them to be premarked is so that we're  
14 not passing a piece of paper along a dais with  
15 whatever the panel is and then that piece of  
16 paper has to be passed along to everybody on the  
17 Subcommittee to see what the heck you're talking  
18 about.

19 So that's why we prefer that these things  
20 be disclosed in advance, and we frown on new  
21 exhibits during cross. We understand that it  
22 happens.

23 MR. RICHARDSON: Understood.

24 MR. IACOPINO: We also understand that

1 someone might want the element of surprise, so  
2 to speak, although in these types of things that  
3 usually doesn't go over very surprisingly, but  
4 nonetheless, if there is something like that, be  
5 prepared to have copies for everybody. And we  
6 would prefer that you provide it to us in  
7 advance electronically.

8 MR. RICHARDSON: I understood, Mike, what  
9 you're saying. My question was just more  
10 practical. It appears I don't have, I think  
11 parties are marking things other than the  
12 Prefiled Testimony such as data request  
13 responses. I only have one set that I'm  
14 holding. Or do I need to get from the Committee  
15 all of the data responses so that I've got those  
16 because I can't download them. They're not on  
17 the website.

18 MR. IACOPINO: You're going to have to get  
19 those from -- we don't have them, I don't think.

20 ADMINISTRATOR MONROE: I just got these,  
21 but --

22 MR. IACOPINO: We don't have all the, the  
23 Committee does not have the Interrogatory Data  
24 Requests.

1 MR. RICHARDSON: Okay. All right.

2 MR. IACOPINO: So to the extent, and I  
3 would urge you all to please give Mr. Richardson  
4 if he asks you for them the Data Requests that  
5 you've gotten answers to and that you've asked.  
6 But we as the Committee don't have them.  
7 They're not filed with us.

8 MR. RICHARDSON: Okay. Thank you. And I  
9 just so I need them to get from the parties,  
10 anyone who is producing new exhibits I just need  
11 to get a copy. Doesn't have to be right here  
12 today, but if we could do that I'd appreciate  
13 it.

14 MR. IACOPINO: In your exchange of exhibits  
15 amongst each other, we don't care if you email  
16 them to each other, give each other a thumb  
17 drive or whatever. As long as you get copies of  
18 them to the other parties or if you agree I  
19 don't need those because I already have them  
20 because I got them when the Application was  
21 filed or I got them when the testimony was  
22 filed. Mr. Patch. You had a question?

23 MR. PATCH: I do, thank you. So you were  
24 talking about cross-examination, and so to the

1 extent that we have other documents other than  
2 the list that we're providing today that we  
3 determine we want to ask on cross-examination,  
4 should we bring 8 or 9 thumb drives for  
5 Committee members? Should we bring just hard  
6 copies? How should we handle that?

7 MR. IACOPINO: Ultimately, we want  
8 everything electronically because it makes it  
9 easier for the record, and as you recall, many  
10 people in the room are probably aware, the  
11 Supreme Court is actually going to electronic  
12 records now. And it's easier for us to maintain  
13 the record electronically. But we're going to  
14 be, you know, you're going to have the same  
15 limitations you have in a Superior Court room.  
16 You're going to need to provide stuff on paper  
17 over there if it's new, and if you don't want to  
18 exchange it beforehand. Obviously, again, we  
19 encourage everybody to exchange everything  
20 beforehand, but to the extent that you don't, be  
21 prepared to have enough copies for the  
22 Committee, for the witnesses, and --

23 MR. PATCH: But in terms of electronic  
24 availability to the Committee, if we were to,

1 the day before or a couple of days before when  
2 we made the final determination if we emailed  
3 it --

4 ADMINISTRATOR MONROE: You can email them  
5 to me, and I'll make sure that I forward them to  
6 the Committee.

7 MR. PATCH: Okay. Thank you.

8 ADMINISTRATOR MONROE: I'll be filing, I'll  
9 have the electronic files here in one, all  
10 compiled, all the exhibits. So yes, if you  
11 email them to me, I'll get them to the  
12 Committee.

13 MR. PATCH: Presumably we could email them  
14 to the entire Service List including you and  
15 that might be the best way to do it.

16 MR. IACOPINO: Yes.

17 ADMINISTRATOR MONROE: Yes.

18 MR. IACOPINO: That's what I was going to  
19 say. Anything that you send to Pam or the  
20 Committee, please copy to everybody. Unless you  
21 have some reason to file a motion for protective  
22 order of some kind.

23 MR. PATCH: Then if we did that, then  
24 presumably we don't need 20 copies that day, you

1 know. If we've sent it out by email, maybe we  
2 only need four copies for the stenographer and  
3 one for each of the witnesses or whatever it is.

4 MR. IACOPINO: If we have it in advance,  
5 we're going to do our best to make sure that the  
6 Committee members have it in whichever format  
7 the particular Committee members are using.  
8 Most of them are going be on their computers so  
9 it would be electronic, but if one of our  
10 Committee members is on paper, we'll make sure  
11 they have that piece of paper if we have it in  
12 advance.

13 MR. PATCH: Okay.

14 MR. ASLIN: I'd like to clarify that. Do  
15 you want a hard copy for the stenographer?

16 ADMINISTRATOR MONROE: If you submit it in  
17 advance electronically to me, and it's  
18 premarked, I don't see any need to also submit  
19 it on paper.

20 MR. ASLIN: So the Committee doesn't need  
21 any paper copies if it's been provided  
22 electronically in advance.

23 ADMINISTRATOR MONROE: Correct.

24 MR. IACOPINO: To the extent that any

1 Subcommittee member decides they want to work on  
2 paper, we'll provide the paper to them.

3 ADMINISTRATOR MONROE: And if it's  
4 voluminous, I might ask you to provide it for  
5 me.

6 MR. ASLIN: Of course. And we should  
7 submit, I assume, updated exhibit lists if we  
8 are adding exhibits.

9 ADMINISTRATOR MONROE: Yes.

10 MR. ASLIN: Thank you.

11 MR. IACOPINO: Was there any other  
12 questions about exhibits?

13 MR. ASLIN: I'll speak up about my exhibits  
14 real quickly. I have a couple thumb drives with  
15 me, but I didn't want to create a dozen of them  
16 before I knew how many people actually wanted  
17 one. So if any parties want a copy of Counsel  
18 for the Public's exhibits, please let me know,  
19 and if it's all or a subset, that would be  
20 helpful, and I'll make sure you get them  
21 quickly.

22 MR. IACOPINO: Any other questions about  
23 exhibits? Okay. Any other business that we  
24 haven't addressed that any parties believe

1 should be addressed?

2 MS. GEIGER: I have a clarification  
3 question, and that is in terms of the issue that  
4 we spoke about earlier, the Construction Panel,  
5 are we to assume that unless we hear otherwise  
6 from the Presiding Officer that the Construction  
7 Panel will be going on the 29th and 30th of  
8 August?

9 MR. IACOPINO: Yes.

10 MS. GEIGER: Thank you.

11 MR. IACOPINO: Our default is to allow the  
12 party calling their witnesses, putting on their  
13 case on, to put their case on in the fashion  
14 they desire. But I did have specific requests  
15 that the opposition be noted in the report. It  
16 will be. If you, you might want to file a  
17 motion if you want to ask specifically for the  
18 relief above and beyond what's been down here.  
19 It's up to you all.

20 Anything from the Applicant? You guys  
21 conferring over there. It sounded like you  
22 might have something to raise?

23 MR. NEEDLEMAN: I don't think so. We've  
24 gotten two drives from Justin and Chris, and

1 then we got Durham and Newington's relatively  
2 brief exhibit list. And I think we have all the  
3 documents. We haven't gotten anything from  
4 anyone else so I'm not sure what the status of  
5 their exhibits are or lists.

6 MR. IACOPINO: After we're done today, will  
7 everybody just please touch base with each other  
8 and make sure that if you haven't provided your  
9 exhibits to all of the other parties that you  
10 make arrangements to do so. You should be doing  
11 it. It's one of the rules. So please, I don't  
12 want to be in a situation where we have to take  
13 an hour when we're supposed to be beginning the  
14 hearing because people didn't get exhibits.  
15 Mr. Patch?

16 MR. PATCH: Just to clarify that issue  
17 though, my understanding is other than  
18 Mr. Richardson who came into this late,  
19 everybody, for example, should have the five  
20 exhibits that we have on our list which are  
21 Prefiled Testimony, you know, two versions of  
22 that, one Supplemental and then two responses to  
23 Data Requests that we sent to Eversource.  
24 Everybody else should have those.

1 MR. IACOPINO: If they were distributed to  
2 everybody through the Service List, they should.  
3 If anybody in the room or any other party who is  
4 not in the room doesn't have them, you should  
5 talk to Mr. Patch after this proceeding is over  
6 today.

7 ADMINISTRATOR MONROE: I can send out,  
8 resend the parties on the service list if that  
9 would be helpful for people.

10 MR. ASLIN: That does remind me of  
11 something. When people are sending out exhibits  
12 to you in advance of hearing days, should they  
13 be using the parties-only Distribution List and  
14 not, so the discovery list as opposed to the  
15 full service list?

16 ADMINISTRATOR MONROE: Yes, and I'll take  
17 care of getting them to the Committee.

18 MR. ASLIN: Thank you.

19 MR. IACOPINO: Mr. Richardson, what did you  
20 mark your exhibits again so that everybody  
21 knows? You told us, but I don't think  
22 everybody --

23 ADMINISTRATOR MONROE: JCT?

24 MR. RICHARDSON: JCT, and I sent them out.



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C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at North Sutton, New Hampshire, this \_\_\_\_\_ day of August, 2018.

*Cynthia Foster*

Cynthia Foster, LCR



<b>A</b>	1:17 4:11 6:7 8:4 19:3 25:1 42:16,19 50:14 71:19 73:23 74:19 78:9 86:10,14 88:5 91:13 92:1 93:2,7 99:3,8 100:4,13,19 101:4 105:20 108:4,8,17 109:16,23 110:3,9 113:7 113:16,23 114:6	10:10,17 11:14 11:16 12:2,2 12:19 24:14 72:9 83:15 89:12 106:18 <b>agreeable</b> 41:5 <b>agreed</b> 39:17 <b>agreeing</b> 37:17 <b>agreement</b> 15:22 38:2 104:3 <b>agreements</b> 27:2 <b>ahead</b> 8:4 24:11 24:16 89:15 <b>aid</b> 5:6 <b>al</b> 53:1,2 <b>alarm</b> 43:9 <b>alike</b> 72:8 <b>Allen</b> 19:14 53:1 <b>allow</b> 111:11 <b>allowed</b> 23:6 64:11 86:15 94:7,12 95:6,8 96:7,12,15 98:15 <b>alternative</b> 33:19 <b>alternatives</b> 68:14 <b>amend</b> 15:4 <b>amendment</b> 15:12 <b>amendments</b> 14:2,3 15:2 <b>amount</b> 23:17 23:19 32:1 51:16 <b>ample</b> 96:19 <b>and-</b> 1:16 <b>Andrew</b> 19:11 46:5,7 51:6 55:11 58:8 61:15 65:13 68:17 <b>Ann</b> 19:14 <b>answer</b> 43:16	73:9 92:12 <b>answered</b> 49:16 <b>answers</b> 81:6 82:14 106:5 <b>anticipate</b> 15:5 16:2,23 18:7 42:8 46:2,11 48:4 65:11 68:15,19 72:13 72:24 83:10 103:10 <b>anticipated</b> 13:20 64:17 76:20,21 77:5 77:5 95:4 <b>anticipating</b> 35:13 47:17 <b>Antrim</b> 96:9,15 <b>anybody</b> 31:23 32:14,21 38:7 83:11 84:4 86:17 89:13,17 91:1,10 113:3 <b>anyway</b> 22:21 93:6 101:16 <b>apologies</b> 99:15 <b>apologize</b> 9:12 13:6,11,12 46:17 <b>appear</b> 19:19 21:6 <b>Appearances</b> 2:1 3:3 <b>appears</b> 25:5,17 105:10 <b>Applicant</b> 2:2 5:19 7:22 13:15,23 15:16 18:15,22 19:7 19:9,12,18,23 20:7,9,11 24:14 32:5 34:7 38:9,23 39:19 42:4,9 52:7 58:12	65:18,21 70:23 73:7,10 76:1 79:2,18 80:3 83:15 84:12 85:18 111:20 <b>Applicant's</b> 3:6 25:6 43:5 45:4 45:19 46:21 66:9 69:18 71:2 75:16 78:1 87:22 95:1 <b>Applicants</b> 44:22 79:12 <b>Application</b> 1:7 4:4 14:7 15:5 106:20 <b>apply</b> 36:1,1 <b>appreciate</b> 6:10 77:13 82:20 88:20 106:12 <b>appreciated</b> 94:15 <b>appropriate</b> 22:17 24:10 31:12 44:1,2 44:13 <b>approximately</b> 51:4 <b>archeological</b> 22:10 54:11 57:4 58:21 60:2 62:2 63:11 66:3 67:8 69:15 71:16 73:20 <b>archeology</b> 45:7 45:13 <b>area</b> 47:3 <b>argument</b> 28:23 31:4 36:7 81:2 82:1 <b>arguments</b> 37:12 39:16 <b>arises</b> 19:24
----------	--	--	--	---

<p><b>arising</b> 76:18  <b>arrangements</b>              88:19 112:10  <b>asked</b> 25:11              26:20 33:16              34:8 35:4              45:23 73:6              80:13 94:1              98:20 99:9,16              100:2 106:5  <b>asking</b> 16:16              24:23 34:5,9              35:14 95:10              102:11 103:10  <b>asks</b> 106:4  <b>Aslin</b> 2:5 6:12,12              15:1,4 37:7,8              41:17 42:5              43:20 44:7,10              44:13,19 46:2              46:7,11,16              47:14,20 48:4              48:11,14,17,19              48:21 49:3,8              49:13,23 50:4              50:7,9,11,16              54:2 56:24              79:7,11,17              80:1,7 84:5,6              85:7 90:4              91:22 92:2,21              94:20,22              109:14,20              110:6,10,13              113:10,18  <b>aspect</b> 98:11  <b>assent</b> 16:18  <b>Assessment</b>              45:16  <b>assessments</b> 22:3  <b>assign</b> 82:9,9  <b>Association</b>              54:21 63:23              67:22 74:14  <b>Asst</b> 2:5</p>	<p><b>assume</b> 22:5              28:4 49:20              76:8 80:14              110:7 111:5  <b>assumed</b> 75:18              75:21  <b>assuming</b> 24:15              103:4  <b>attach</b> 34:6  <b>attend</b> 36:16,17              36:17,18  <b>attorney</b> 6:24              32:16,16 35:22              41:17 115:11              115:14  <b>Atty</b> 2:5  <b>audience</b> 29:22  <b>August</b> 1:3 4:13              18:22 19:7              21:16 76:5              81:15 87:17,20              91:6,7 111:8              114:16 115:18  <b>authority</b> 33:22              37:3  <b>authorized</b>              115:3  <b>availability</b> 22:4              23:4 76:11,23              107:24  <b>available</b> 19:23              19:24 20:12              21:11 22:5,7              24:9 30:22              33:23 39:3              87:8 88:22              90:5,13 91:20              97:12 99:10,24              101:2 114:11  <b>avoid</b> 37:24              88:20 90:10  <b>aware</b> 9:13              13:18 14:14              44:8 47:2              91:11 98:21</p>	<p>107:10  <hr/> <b>B</b>  <b>B</b> 102:18  <b>back</b> 24:9 27:8              29:21,22 30:6              31:6 35:22              39:20 49:18              61:11 75:6,9              81:12 84:1,2              87:7 97:1  <b>background</b>              16:13 68:13  <b>Bailey</b> 20:10,12              48:7 53:8 56:9              59:5 62:12              66:13 69:24  <b>Baker</b> 42:18,19              50:13 55:3              58:2 60:22              64:6 68:2              72:22 75:2              78:13 86:9  <b>ballpark</b> 75:24  <b>Barry</b> 2:2 5:17              20:20 45:10  <b>base</b> 112:7  <b>based</b> 22:3 26:24              28:7,8 38:4,13              40:5,6 42:3              43:13 51:1              81:10 86:24              88:14 93:4,5  <b>basically</b> 4:19              5:8 24:12 41:7              47:1 71:4              103:7  <b>basis</b> 28:24              83:21  <b>batting</b> 78:15  <b>bearing</b> 79:18  <b>beginning</b> 29:1              45:24 112:13  <b>begins</b> 4:15  <b>behalf</b> 27:20</p>	<p>64:21  <b>believe</b> 9:23              30:12 33:21              45:6,9 48:23              62:3 110:24  <b>best</b> 22:2 27:4              33:13 36:11              40:11 43:12,13              45:20 76:13              84:16 92:12              95:18 98:6              108:15 109:5  <b>Beth</b> 5:19  <b>better</b> 36:12              70:21 82:22              83:1  <b>beyond</b> 38:23              111:18  <b>bit</b> 51:15 61:12  <b>biting</b> 72:4  <b>Bjorn</b> 19:14  <b>bleed</b> 92:21  <b>Board</b> 6:18 72:7  <b>body</b> 37:10  <b>Borkman</b> 19:15              48:2 53:3  <b>Bowes</b> 18:24  <b>break</b> 23:2 75:5              75:13  <b>breaking</b> 82:3  <b>brief</b> 21:20              23:21 97:15              112:2  <b>briefs</b> 30:18  <b>bring</b> 16:9 99:9              101:16,19              107:4,5  <b>broadly</b> 81:6  <b>broke</b> 80:12  <b>brought</b> 10:5              18:18  <b>Brown</b> 2:14,14              6:24 9:18,19              16:23 17:2              61:2,4,6,9,17</p>	<p>61:20,24 62:3              62:7,10,14,17              62:20,24 63:6              63:9,12,16,19              63:21,24 64:2              64:4,7,9,18              80:13,19 81:4              81:13,18,19              82:17 83:2              100:6,15,21  <b>build</b> 23:13,14  <b>built</b> 39:6  <b>Bunker</b> 19:8              21:13 23:4,21              45:6,12 47:17              47:19,20 52:20              55:24 58:21              62:1 66:2              69:15  <b>burden</b> 79:19  <b>business</b> 4:6              110:23  <hr/> <b>C</b>  <b>C</b> 102:18 115:1,1  <b>calculation</b>              75:11  <b>calculations</b>              77:14  <b>calendar</b> 91:10  <b>call</b> 18:23 19:8              19:13 20:8,9              53:24 58:13              102:18  <b>called</b> 77:4  <b>calling</b> 39:20              53:22 74:10              78:23 111:12  <b>canvass</b> 92:15  <b>capabilities</b>              52:15 55:17              65:21  <b>capability</b> 58:16              61:19 69:8  <b>care</b> 106:15</p>
---	--	--	--	--

<p>113:17  <b>case</b> 32:6,8  34:22 40:16  42:8 76:2,9  83:18 87:22  96:18 98:22  101:3 102:20  111:13,13  115:15  <b>cases</b> 14:16,17  97:8  <b>catch</b> 47:9  <b>categorize</b> 96:18  <b>cause</b> 77:1,17  <b>caution</b> 25:21  <b>caveat</b> 17:3  <b>certain</b> 82:23  <b>certainly</b> 9:14  14:14 17:24  36:2 103:23  <b>Certificate</b> 1:9  4:6  <b>certify</b> 115:5,10  <b>Chair</b> 25:4 93:17  97:20  <b>Chairman</b> 6:18  <b>challenges</b> 76:11  <b>Chalmers</b> 20:8  48:12 53:15  56:14 59:13  62:19 65:3,4  66:18 70:8  <b>chance</b> 9:20 10:5  10:13 26:6  30:11,19 41:23  <b>change</b> 13:16  17:4 27:24,24  31:7,15,18  33:8 40:6 77:3  <b>changed</b> 44:15  95:11 98:5  <b>changes</b> 5:2  14:24 15:5  16:23 17:6  18:12 29:10</p>	<p>40:5 73:3,3  95:9  <b>changing</b> 16:2  18:8  <b>cheat</b> 44:16  46:23  <b>check</b> 9:6  <b>checklist</b> 85:13  <b>Cherilyn</b> 20:8  45:9,13  <b>chime</b> 12:15  <b>Chris</b> 6:11,12  41:15 45:18  53:24 56:23  111:24  <b>Christopher</b> 2:5  <b>circumstances</b>  9:16 17:4  <b>citation</b> 36:21  <b>cites</b> 36:22  <b>clarification</b>  81:5 83:14  111:2  <b>clarified</b> 98:6  <b>clarify</b> 12:5  27:19 109:14  112:16  <b>cleanup</b> 78:16  <b>clear</b> 12:19 83:5  <b>clears</b> 94:14  <b>clerk</b> 103:2  <b>CLF</b> 10:19 18:4  18:5 42:12  58:5 85:21  <b>client</b> 9:7,19  10:9 13:7 26:7  27:20 34:19  80:23,23 83:3  83:3 84:18  <b>clock</b> 43:9  <b>clockwork</b> 77:11  <b>closer</b> 59:4  <b>combined</b> 81:1  82:4  <b>come</b> 11:17</p>	<p>15:23 20:1  24:9 27:2 29:8  29:22 30:6  37:20 75:6  86:21 87:18  93:15 96:24  104:3,11  <b>comes</b> 29:21  36:8 52:9  96:13  <b>coming</b> 38:18  71:3  <b>comment</b> 43:20  <b>committee</b> 1:2  4:4 11:9,22  12:9 14:21  16:13 17:5  24:15 26:2,24  27:10 29:9  31:13 33:14,21  35:7,10 37:2,3  39:3 41:1  75:23 77:6  83:21 88:16  92:15 94:5  95:20,24 97:24  99:11,12  100:17 103:5  105:14,23  106:6 107:5,22  107:24 108:6  108:12,20  109:6,7,10,20  113:17  <b>Committee's</b>  97:5  <b>Committees</b>  97:9  <b>communications</b>  41:20  <b>company</b> 4:5  68:12  <b>competently</b>  93:20  <b>compiled</b> 108:10</p>	<p><b>complete</b> 90:13  92:5  <b>completed</b> 21:15  37:21 85:18  100:9  <b>completely</b> 23:5  <b>computer</b> 98:23  98:24 99:13  101:7  <b>computers</b> 109:8  <b>concern</b> 25:15  26:23 40:1  96:6 97:2  <b>concerns</b> 30:17  84:2 93:24  <b>concludes</b> 19:20  <b>conclusion</b> 12:20  <b>Concord</b> 1:4  <b>concurred</b> 41:19  <b>concurrence</b>  41:18  <b>condition</b> 33:8  35:9  <b>conditions</b> 24:2  25:6 31:7,19  32:2,24 33:4  34:7 35:2 36:1  38:21 39:14  <b>conduct</b> 98:17  <b>Conference</b> 1:10  3:2 4:3,9,13,21  7:18 37:14  114:5,15  <b>Conference's</b>  4:19  <b>conferring</b>  111:21  <b>conflict</b> 87:12,18  91:11  <b>conflicts</b> 86:22  87:1 88:4 91:4  <b>conjunction</b>  22:15  <b>connect</b> 84:1  <b>consent</b> 5:4</p>	<p><b>Conservancy</b>  42:23 68:5  78:8,14 86:2,9  <b>Conservation</b>  2:9 7:14,16  78:4  <b>conservative</b>  51:20 59:3  69:4 75:17  <b>considered</b>  68:14  <b>consistent</b> 50:19  <b>consistently</b>  103:6  <b>consisting</b> 48:1  <b>consolidation</b>  5:5  <b>construction</b>  18:23 19:8,10  21:4,5,10,20  21:21 22:9,11  23:3,20 24:4  25:19 26:3,17  27:4,8,22 30:1  30:21 31:5,16  31:21,23 32:9  33:6 34:19  38:16 39:23  40:4,23 43:18  46:3,9,12 51:9  53:23 54:5  55:14 56:21  58:11 61:10,14  65:17 68:21  70:16 90:1  111:4,6  <b>consulted</b> 8:12  12:12  <b>contained</b> 11:10  <b>contemplate</b>  43:21 85:8  <b>contemplated</b>  25:24  <b>contemplates</b>  32:24 39:13</p>
---	--	--	---	---

<p><b>context</b> 32:10 34:22 <b>continue</b> 19:17 21:21 22:14 30:22 41:3 <b>continuing</b> 14:15 17:5 <b>convenience</b> 67:11 <b>conversation</b> 97:19 <b>conversations</b> 15:17 <b>copies</b> 11:24 101:10,19 102:6 104:9 105:5 106:17 107:6,21 108:24 109:2 109:21 <b>copy</b> 8:21 101:12,16 102:8,23 103:1 103:3 104:6 106:11 108:20 109:15 110:17 <b>correct</b> 10:2 14:11 22:18 42:24 45:13 49:21 50:3 70:24 81:22 85:23 100:6 109:23 <b>corrected</b> 99:18 <b>correctly</b> 21:8 <b>counsel</b> 2:2,4 3:8 6:12 7:23 14:23 41:14,18 42:10 43:22 47:12 53:21 56:19 57:4 59:18 60:2 63:3 66:24 70:14 71:12 73:8 78:15,19</p>	<p>78:19 79:4,12 79:19 81:21 85:3 86:17 90:9 94:23 96:10,17 110:17 115:11 115:14 <b>counted</b> 33:2 <b>counting</b> 92:16 <b>country</b> 21:14 <b>couple</b> 24:6 26:4 49:15 108:1 110:14 <b>course</b> 26:23 27:13 90:18 94:13 95:13 102:13 110:6 <b>court</b> 1:21 6:9 102:23 107:11 107:15 115:3,4 <b>courtesy</b> 103:1 <b>covered</b> 69:1 <b>covers</b> 31:24 <b>Craig</b> 19:15 <b>crazy</b> 89:2 <b>create</b> 29:17 102:4,17 110:15 <b>cross</b> 28:8,12 64:13,15 70:23 75:18,20 93:23 94:1,5,9 95:16 104:21 <b>cross-examina...</b> 3:7 17:11,13 20:13 28:1 29:19 30:5 31:10 34:12 36:7 40:13 72:5 80:13 81:2 82:7 94:2 94:13 95:15 97:12,23 98:2 102:14,16 104:11 106:24</p>	<p>107:3 <b>cross-examina...</b> 30:7 <b>cross-examine</b> 29:8 30:16 51:3 54:14 64:12 80:15 <b>cross-examining</b> 29:23 78:21 <b>crosses</b> 25:19 <b>Crowley</b> 2:15 7:7,8 43:1 78:14 86:2,13 <b>Cullen</b> 19:11 46:14 47:10 52:14 55:16 58:15 61:19 65:20 69:7 <b>Cynthia</b> 1:21 115:2,20</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>D</b> 3:1 102:18 <b>d/b/a</b> 1:8 <b>Dacey</b> 48:23 57:14 <b>daily</b> 91:23 <b>dais</b> 22:20 104:14 <b>Darius</b> 2:12 5:23 <b>data</b> 105:12,15 105:23 106:4 112:23 <b>date</b> 90:10 <b>Dated</b> 115:17 <b>dates</b> 18:18 88:17,21 <b>Dave</b> 45:15 <b>David</b> 18:24 20:10 45:10 <b>day</b> 20:12 21:6 21:16 22:16 23:5 75:19,23 88:9 89:6 90:2 90:6,18,19,22</p>	<p>92:20 93:9,15 103:3 108:1,24 114:14 115:18 <b>days</b> 7:21 20:13 21:8 27:23 33:2 34:8,24 35:12,15 36:22 38:22 39:2,5 41:6,9 49:9 75:20 76:1,4 92:6,8,9,10,14 92:16,17,18,22 108:1 113:12 <b>deadline</b> 37:4 <b>deal</b> 73:4 95:19 <b>decide</b> 27:16 28:21 <b>decided</b> 27:16 28:20 29:6 <b>decides</b> 24:15 31:11 41:2 110:1 <b>decision</b> 28:6 33:4 37:6,11 41:24 <b>default</b> 82:19 111:11 <b>definitive</b> 85:1 <b>degree</b> 94:7 <b>delay</b> 9:21 26:12 28:19 41:22 84:13 <b>delayed</b> 32:3 <b>delaying</b> 34:16 <b>deliberation</b> 92:8,17,18 <b>deliberations</b> 25:10 35:7 36:10 92:22 99:4 <b>Denis</b> 6:17 49:4 72:6 <b>Department</b> 2:6 14:9 15:17 <b>depending</b> 17:22</p>	<p>21:17 25:24 90:7 <b>DES</b> 14:15 17:23 24:1,13,14,21 25:2,3,7,10,11 25:16,24 26:9 26:19 27:1,9 27:23 28:3,6 28:13 29:10,21 29:24 30:22 31:6,11,17,20 32:2,24 33:7 33:16,22 34:5 34:13 35:10,11 35:14 36:16 37:19 38:17,20 39:14 40:4,5,7 41:1,7,9,21,24 43:19 <b>DES's</b> 33:9,15 33:20 <b>DES-related</b> 32:17 <b>designated</b> 20:14 82:15 <b>designations</b> 114:10 <b>desire</b> 44:11 111:14 <b>detail</b> 10:9 <b>determination</b> 89:5 98:13 108:2 <b>determine</b> 11:12 35:8 39:9 107:3 <b>determines</b> 35:1 39:7 40:10 <b>determining</b> 10:22 38:5 <b>development</b> 48:10 53:13 56:11 59:10 62:16 66:16 70:4</p>
---	--	--	--	---

<p><b>different</b> 21:7 25:7 35:2,9 53:5 61:12 93:15 94:16 102:7 114:3 <b>difficult</b> 20:19 21:23 28:15 <b>digest</b> 9:20 <b>direct</b> 94:11,17 94:22 95:5,7 95:12 97:9 <b>directed</b> 27:4 <b>direction</b> 44:17 <b>directly</b> 34:20 <b>disadvantage</b> 28:11 <b>disagree</b> 30:11 <b>disclosed</b> 104:20 <b>discovery</b> 100:12 103:20 113:14 <b>discuss</b> 8:15 15:20 18:20,21 29:16 84:5 <b>discussed</b> 39:17 <b>discussion</b> 4:22 7:19 37:9 <b>discussions</b> 24:16 28:10 38:14 41:1,2 72:8 <b>disorganized</b> 30:2 <b>dispense</b> 97:7 <b>disposition</b> 5:7 <b>dispute</b> 5:1 11:11 12:20 <b>distinct</b> 28:11 <b>distributed</b> 21:3 104:8 113:1 <b>Distribution</b> 113:13 <b>Division</b> 15:18 <b>docket</b> 1:7 4:4 8:19 96:10 <b>document</b> 11:10</p>	<p>20:20 <b>documents</b> 107:1 112:3 <b>Dodeman</b> 19:1 <b>Dog</b> 64:5 72:22 <b>doing</b> 4:5 22:2 85:16 89:4 100:3 102:15 112:10 <b>Donna</b> 2:13 6:23 9:19 17:2 80:22 <b>Donovan</b> 99:4,5 100:24 114:16 <b>dots</b> 84:1 <b>doubt</b> 11:1 62:24 63:12 <b>Doug</b> 7:9 8:9 10:4 23:22 26:12 30:12 48:24 <b>Douglas</b> 2:8 7:10 <b>download</b> 105:16 <b>dozen</b> 110:15 <b>Dr</b> 19:15,22 20:8 20:10,12 21:13 48:7 50:1 53:8 56:9 59:5,13 62:12,19 65:3 65:4 66:13,18 69:24 70:8,11 71:23 <b>drafted</b> 10:6 <b>drive</b> 99:20 103:17 106:17 <b>drives</b> 99:9 107:4 110:14 111:24 <b>duly</b> 115:3,9 <b>Dumville</b> 2:3 5:18 <b>Durham</b> 2:7 6:6 6:21,23 7:11 10:1 17:3,14</p>	<p>26:11 40:23 42:12,14 49:20 50:5 54:16,20 57:8,10,18,20 60:13,16 61:1 62:24 63:15,22 64:10,13,20 67:19,21 71:18 71:19,21 72:11 72:15 73:23 74:1,6,8,11,14 74:18 78:5,9 78:11 80:19 81:17 82:4 85:24 86:3,6,7 89:11,15 91:19 100:5 112:1 <b>Durham/UNH</b> 10:6 42:11 48:20,22 50:21 57:8 60:6,8 63:17 67:12,14 71:22 78:3 85:20 86:5 89:21 91:18</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>E</b> 3:1 102:19 115:1,1 <b>eager</b> 32:18 <b>earlier</b> 35:4 76:10 111:4 <b>easier</b> 100:1 102:2 107:9,12 <b>economics</b> 48:16 53:19 59:15 66:22 70:12 <b>effectively</b> 37:5 <b>effects</b> 22:10 23:15 <b>efficiency</b> 31:8 35:23 <b>efficient</b> 36:3 <b>effort</b> 9:22 <b>efforts</b> 14:15,19</p>	<p><b>either</b> 9:2 41:9 42:24 86:11 97:6,20 <b>electric</b> 68:9,10 <b>electromagnetic</b> 48:6 53:9 56:9 59:7 <b>electronic</b> 99:15 107:11,23 108:9 109:9 <b>electronically</b> 1:6 105:7 107:8,13 109:17,22 <b>element</b> 105:1 <b>elements</b> 14:22 <b>eliminate</b> 78:22 <b>Elizabeth</b> 2:3 <b>ELMO</b> 101:2,15 <b>email</b> 87:7 106:15 108:4 108:11,13 109:1 <b>emailed</b> 108:2 <b>EMF</b> 62:13 66:13 <b>EMFs</b> 69:24 <b>employed</b> 115:11,15 <b>employee</b> 115:14 <b>employment</b> 48:16 53:19 59:16 66:22 70:12 <b>encourage</b> 11:7 11:14,16,16 12:1 107:19 <b>ended</b> 114:18 <b>Energy</b> 1:9 2:3 4:6 <b>enormous</b> 32:1 <b>ensuing</b> 15:17 <b>entered</b> 103:13 <b>entire</b> 108:14 <b>entirely</b> 41:16</p>	<p>96:16 <b>entirety</b> 11:2 <b>environmental</b> 14:10 19:13,20 25:20 43:19 47:24 48:24 52:24 53:23 54:5 56:5,20 57:10 59:2 60:9 62:8,10 63:18 66:9 67:15 69:21 70:16 71:21,22 74:1 82:9 90:14 <b>Environmenta...</b> 59:20 63:4 67:2 91:18 <b>envision</b> 9:1 <b>especially</b> 21:24 47:14 <b>Esq</b> 1:15 2:2,3,8 2:9,11,14,15 2:17 <b>ESS</b> 73:13 <b>essentially</b> 45:15 94:2 100:10 <b>estimate</b> 43:13 45:20 66:7 75:17 84:16 <b>estimates</b> 21:18 22:1 23:16 62:22 75:14 93:6 <b>estimating</b> 76:4 <b>et</b> 53:1,2 <b>evaluate</b> 9:16 <b>Evaluation</b> 1:2 4:3 <b>event</b> 22:24 38:20 87:3 91:20 <b>Eversource</b> 1:8 2:3 4:6 5:20 15:19 17:16</p>
---	--	---	--	---

<p>112:23  <b>everybody</b> 4:2                      5:11 11:4,24                      14:14 20:2                      38:4 51:19                      75:15 76:17                      77:2,8,15,18                      79:6 82:11                      92:24 93:11,18                      93:19 95:10                      99:24 102:3                      103:24 104:1,2                      104:10,16                      105:5 107:19                      108:20 112:7                      112:19,24                      113:2,20,22  <b>evidence</b> 30:3                      80:1 81:2  <b>exam</b> 94:22  <b>examination</b> 5:5                      29:18 46:20                      80:16 85:17                      92:6 97:9  <b>examinations</b>                      38:5 75:11                      77:24  <b>example</b> 24:5                      112:19  <b>exchange</b> 106:14                      107:18,19  <b>exchanged</b>                      103:16  <b>exchanging</b>                      103:24  <b>excuse</b> 24:15                      44:23  <b>exhaust</b> 92:14  <b>exhibit</b> 15:23                      16:5 102:18,24                      103:10,11                      110:7 112:2  <b>exhibits</b> 3:10                      83:7 93:22                      98:19 99:1,13</p>	<p>101:8 102:12                      102:18 103:16                      104:1,2,4,7,12                      104:21 106:10                      106:14 108:10                      110:8,12,13,18                      110:23 112:5,9                      112:14,20                      113:11,20  <b>existing</b> 12:18  <b>expect</b> 14:1,3,4                      14:24 30:18,21                      32:11 69:5                      73:12 97:20  <b>expectation</b>                      23:18 27:7                      92:7  <b>expected</b> 27:20                      28:12 49:19                      75:11  <b>expecting</b> 17:9                      72:4  <b>expediency</b>                      37:13 44:1  <b>expedite</b> 64:23  <b>expert</b> 18:2                      59:22 69:19                      79:15 96:11  <b>explain</b> 98:20  <b>explained</b> 7:17  <b>explaining</b> 4:16  <b>expounds</b> 94:14  <b>expressed</b> 94:4  <b>extend</b> 34:10  <b>extent</b> 14:19                      27:11 37:16                      40:20 76:18                      81:5 95:14                      102:12 104:7                      106:2 107:1,20                      109:24  <b>extra</b> 101:16  <b>extraordinarily</b>                      21:23  <b>eye</b> 10:22</p>	<p style="text-align: center;"><b>F</b></p> <hr/> <p><b>F</b> 2:9 102:19                      115:1  <b>face</b> 93:3  <b>faced</b> 35:24  <b>faces</b> 4:17  <b>Facility</b> 1:9 4:7  <b>fact</b> 4:24 8:1 9:2                      43:14 83:23  <b>facts</b> 9:8 11:9,14  <b>fair</b> 23:19 29:15                      30:16 31:12                      40:17 51:16                      77:2  <b>Famely</b> 48:23                      57:13 87:12,23                      87:24 88:4  <b>familiar</b> 4:17  <b>far</b> 9:19 15:7                      86:24 89:21                      100:2  <b>Farm</b> 2:12 5:23  <b>Farrington</b> 19:1                      19:5  <b>fashion</b> 111:13  <b>faster</b> 76:21  <b>Fat</b> 64:5 72:21  <b>feel</b> 38:8  <b>fields</b> 48:7 53:9                      56:9 59:7  <b>figure</b> 82:2  <b>file</b> 17:8 108:21                      111:16  <b>filed</b> 1:6 8:11,13                      12:8,13 13:16                      13:19 15:15                      16:7 18:3 26:5                      27:10 28:18                      50:15 106:7,21                      106:22  <b>files</b> 108:9  <b>filing</b> 9:13 11:21                      84:14 108:8  <b>fill</b> 20:1 76:13  <b>final</b> 28:6 31:17</p>	<p>31:18 33:1,3                      37:6,6 40:24                      89:2 108:2                      114:4  <b>financial</b> 47:11                      52:15 55:16                      58:15 61:19                      65:21 69:7  <b>financially</b>                      115:15  <b>financials</b> 46:15  <b>find</b> 11:9 20:18                      89:3 92:16  <b>finding</b> 43:24  <b>findings</b> 8:1 9:2                      9:17  <b>fine</b> 46:7 49:16                      73:1,2 85:10                      87:5 89:16                      90:15,24  <b>finished</b> 89:23                      92:14  <b>firm</b> 6:15  <b>first</b> 5:11 8:2,5,6                      13:15 26:5,17                      31:2 32:3 34:5                      40:14 44:18,19                      45:20 71:4,7                      85:4 89:10,20                      90:9 93:16                      100:24  <b>Fitch</b> 6:5,5 50:2  <b>five</b> 46:16 48:8                      48:17 50:9                      53:20 54:24                      55:2,4,18                      56:10,18 57:9                      57:19,21 58:3                      58:10,17 59:17                      60:12,19 61:17                      63:24 64:2,4,7                      65:22 71:14                      75:20 89:1                      112:19  <b>five-person</b></p>	<p>19:16  <b>flashed</b> 101:8  <b>flexible</b> 85:8  <b>flow</b> 30:3 44:14  <b>flux</b> 28:4 43:15                      43:17  <b>folks</b> 21:22 22:2                      94:16  <b>follow</b> 4:14 44:2                      91:17 103:8  <b>followed</b> 19:18                      19:21 20:8,10                      35:6 42:10,10                      42:11,11,12,13                      42:17,18,22,24                      78:3,4,5,5,7,15                      85:20,24 86:1                      86:5,6,6,7,8,8                      86:9,13 89:21                      103:6  <b>following</b> 21:8                      80:2  <b>follows</b> 43:22  <b>foregoing</b> 115:5  <b>forfeit</b> 88:18  <b>forget</b> 90:22,23  <b>form</b> 14:17  <b>format</b> 3:10                      109:6  <b>forth</b> 4:15  <b>forward</b> 13:7                      17:12 28:24                      36:9 37:15                      108:5  <b>forwarded</b> 25:4  <b>Foster</b> 1:21 6:9                      115:2,20  <b>found</b> 28:9  <b>Foundation</b> 2:9                      7:14,16 78:4  <b>four</b> 18:2 109:2  <b>four-month</b> 33:3  <b>framing</b> 30:12  <b>Frazier</b> 19:3,6  <b>free</b> 11:22</p>
--	---	--	---	--

<p><b>Friday</b> 100:15  <b>friendly</b> 64:13          64:15 70:20,21          93:23 94:1,5,9  <b>Frink</b> 2:12,12          5:22,22,23 6:1          8:17,20,22          10:12 18:6,7          32:14,15 42:18          44:23 45:2,3          45:17 50:10          55:1 57:24          60:20 64:3          65:9,11,16,19          65:22 66:1,4,7          66:10,14,17,20          66:23 67:4,6,9          67:13,16,18,20          67:23 68:1,3          72:20 74:24          78:7,13 86:1,8          90:11,12,20,24          99:16  <b>Frizzel</b> 2:16  <b>Frizzell</b> 6:3          10:16 18:11          42:17 48:1          50:8 54:23          57:22 60:18          64:1,21 67:24          72:18 74:16,17          78:6,12,12          86:1,8 91:4,14  <b>front</b> 5:15 25:9          37:9 99:14          101:7  <b>frown</b> 104:20  <b>frowned</b> 94:6  <b>Fruit</b> 1:4  <b>full</b> 16:5 30:15          75:23 113:15  <b>fully</b> 30:18 32:11  <b>functionally</b>          82:17 83:4  <b>fundamentally</b></p>	<p>29:11  <b>further</b> 14:1,3          15:9 30:7,8          40:13 115:10          115:13</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>G</b> 1:17 2:5          102:19  <b>gap</b> 19:24 20:1          33:3  <b>gaps</b> 76:13 77:7          77:8,10  <b>Geiger</b> 2:11 6:15          6:15 9:5,6 12:4          12:5 15:7,10          16:3 23:1,8          31:3 32:16          35:22 55:6,9          55:13,15,18,20          55:23 56:1,4,6          56:10,13,16,18          56:22 57:2,6,9          57:16,17,19,21          57:23 58:1,3          83:8,19,20          88:13 97:4,5          98:3,9 111:2          111:10  <b>general</b> 2:5 14:8  <b>generally</b> 19:23          64:14 81:23,24          82:5,13,15          95:8 97:20  <b>getting</b> 95:23          113:17  <b>give</b> 29:21 43:12          69:3 77:2          83:21 86:23          92:2 96:3          103:1 106:3,16  <b>given</b> 12:7 46:12          95:12  <b>gives</b> 75:24          95:24</p>	<p><b>global</b> 11:6  <b>go</b> 5:11 8:3,4,16          12:24 14:23          18:6,16,19          21:17 24:11,16          39:1 41:9 43:4          43:5 44:11,12          44:19,20 45:19          46:5 52:10          55:7 56:19          64:17,22 68:7          75:5,8 76:7          77:11,23 78:12          78:22,24 79:5          79:14 80:4          85:4,5 87:3          88:11 90:9          93:18 96:4          97:1 105:3  <b>goes</b> 15:8 20:4          70:23 76:17          89:22 91:15  <b>going</b> 4:1,2,14          5:15 9:21 13:5          13:14 18:16          21:5,6,19,24          22:8,14,15,19          22:24 25:13,16          27:8 28:21,24          29:9,16 30:9          30:23 31:7,18          33:1,8,9,16,17          34:11 35:1,8          36:4,9,18 38:1          39:1 40:21          43:8,9,10          44:18 45:18,21          45:22 46:5,6          46:13,21,22,23          49:21 50:13,18          50:20 51:3,12          55:5 59:18          61:1,2,20          64:21,22 67:11          68:7,12,24</p>	<p>69:14 71:2          73:7,9 75:4          76:21 77:4,24          78:1,2,8 81:8          81:17,18 83:9          84:23 85:4          86:3 87:21          89:4,5,7,10,20          92:13,15,22          93:21 97:21          99:1,1,22,22          99:23 100:6          102:14,21          103:22 105:18          107:11,13,14          107:16 108:18          109:5,8 111:7          114:13  <b>good</b> 4:2 6:19          7:5 49:10          90:20 93:7  <b>gotten</b> 22:1          106:5 111:24          112:3  <b>great</b> 54:15  <b>ground</b> 32:1  <b>group</b> 42:13          81:22 82:5,6          82:10,11  <b>group's</b> 82:3  <b>grouped</b> 64:10  <b>guess</b> 8:2 11:8          13:3 14:2          15:14 16:14,15          23:15 33:19          51:4,16,17          52:3,10 53:6          54:18 74:18          80:5 82:19          83:14 93:21  <b>guys</b> 111:20</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>half</b> 21:14 29:20          47:14 48:5,11</p>	<p>61:10 62:10  <b>halfway</b> 29:19  <b>Hampshire</b> 1:1,4          1:8 2:7 4:5          7:12 115:5,17  <b>hand</b> 8:8,16 45:2  <b>handle</b> 107:6  <b>hands</b> 41:13  <b>handwritten</b>          100:7  <b>happen</b> 29:16          40:15 77:12          78:17  <b>happened</b> 30:14          40:14  <b>happening</b> 37:5  <b>happens</b> 40:21          77:9 92:5          104:22  <b>Happy</b> 44:19  <b>hard</b> 47:9 68:23          75:22 77:12          101:9,12,16,19          107:5 109:15  <b>Hatfield</b> 7:7  <b>headed</b> 92:3  <b>heads-up</b> 92:2  <b>Heald</b> 2:13 6:23          6:23 7:3 9:20          17:3 42:13          50:1 80:22  <b>health</b> 53:9 56:8          59:6 62:13          70:1  <b>hear</b> 23:16,24          27:23 39:4          40:24 98:2          111:5  <b>heard</b> 25:12          42:23 86:24          93:19 96:13  <b>hearing</b> 4:9,12          4:16 14:5 80:9          88:17 89:20          92:8 97:14</p>
---	--	---	--	---

<p>112:14 113:12 114:18 115:7 <b>hearings</b> 4:20 5:4,9 12:21 17:18 27:19 33:1 34:17 36:18 99:4,6 <b>Hebert</b> 6:17 16:11,18 49:4 49:10,14,16 54:14 60:11 63:20 67:17 72:2 74:4 83:9 88:11,14,23 89:10,24 90:2 91:17 <b>Hebert's</b> 6:20 15:13 16:8 <b>heck</b> 104:17 <b>held</b> 43:7 <b>Helen</b> 2:12 5:22 <b>help</b> 45:11 <b>helpful</b> 47:5 84:24 95:19 96:2 99:21 110:20 113:9 <b>highlight</b> 96:3 <b>historic</b> 42:14 45:6,8,14 50:5 54:11,21 57:3 57:20 60:2,16 62:6 63:22 64:20 66:6 67:8,21 69:19 71:16 72:15 73:20 74:14 78:10,11 86:3 86:7 <b>historical</b> 15:18 15:18,21 <b>historically</b> 52:6 <b>historics</b> 56:3 58:24 63:11 <b>hold</b> 85:11 <b>holder</b> 38:14</p>	<p>39:10 <b>holding</b> 105:14 <b>holds</b> 103:3 <b>hope</b> 16:17 23:18 <b>hopeful</b> 17:17 <b>hopefully</b> 25:11 <b>horrifying</b> 92:4 <b>horror</b> 93:3 <b>hour</b> 43:8,10 47:15 48:4,11 55:15 56:4,7 56:13 61:10 62:10,20 68:22 69:6,14,22 73:15,18,24 74:12,15 112:13 <b>hours</b> 46:11 51:17 52:13 53:7 75:18,19 92:19 <b>humanly</b> 29:15</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>Iacopino</b> 1:15 4:1 5:21,24 6:4 6:11,14,19 7:2 7:4,9,17 8:5,14 8:18,21 9:11 9:18 10:2,4,12 10:18 11:3 12:14,22 13:1 13:12 14:1,7 14:23 15:2,7 15:24 16:20 17:7,12 18:4,6 18:10,13 19:5 20:16,20 21:1 22:5,19,23 23:7,9,22 24:20 25:2 26:9,14,22 27:14 28:17 29:5,12,14</p>	<p>31:2 32:14,21 34:2,4,21 36:2 37:7,22 38:22 40:1 41:11 42:2,6,17,22 44:5,8,11,16 44:20 45:1,18 46:4,9,14,18 46:23 47:10,16 47:22,24 48:6 48:9,12,15,18 48:22 49:4,7 49:11,17 50:3 50:5,8,10,12 50:17 51:6,9 51:19 52:6,14 52:17,20,22,24 53:3,8,12,15 53:18,21 54:4 54:7,10,13,16 54:20,23 55:1 55:3,5,11,14 55:16,19,21,24 56:2,5,8,11,14 56:17,19,23 57:1,3,7,10,18 57:20,22,24 58:2,4,8,11,15 58:18,21,23 59:2,5,9,12,15 59:18,22 60:1 60:5,8,11,13 60:16,18,20,22 60:24 61:5,7 61:11,18,22 62:1,5,8,12,15 62:18,21 63:2 63:7,10,14,17 63:20,22 64:1 64:3,5,8,14,19 65:1,4,6,8,13 65:17,20,23 66:2,5,8,11,15 66:18,21,24 67:5,7,10,14</p>	<p>67:17,19,21,24 68:2,4,11,17 68:21 69:3,7 69:11,15,18,21 69:24 70:3,8 70:11,14,24 71:6,9,12,15 71:18,21 72:2 72:4,11,15,18 72:20 73:2,14 73:16,19,22 74:1,4,6,10,13 74:16,22,24 75:2,4,8 76:17 78:11 79:4,9 79:14,23 80:3 80:8,24 81:8 81:15,23 82:20 83:6,19 84:4,7 84:11,21 85:5 85:11,24 86:12 86:16 87:14,20 88:21 89:8,12 89:17,19 90:11 90:16,21 91:1 91:6,9 92:12 92:24 93:4,11 94:21 95:7 96:14 97:3,17 98:4 99:5,12 100:18,22 101:11,14,20 102:11 103:7 103:23 104:24 105:18,22 106:2,14 107:7 108:16,18 109:4,24 110:11,22 111:9,11 112:6 113:1,19 114:3 114:7,12 <b>idea</b> 43:7 49:19 93:8 <b>identify</b> 5:12,14</p>	<p><b>identifying</b> 35:3 <b>imagine</b> 15:22 <b>impact</b> 17:24 34:19 45:15 52:18 <b>impacts</b> 15:21 54:8 55:22 58:19 61:23 65:24 69:12 <b>important</b> 17:19 24:19 27:18 37:8,12 <b>impose</b> 24:2 <b>inadvertently</b> 13:7 <b>include</b> 4:21 38:14 88:16 <b>included</b> 74:17 <b>includes</b> 18:24 19:13 <b>including</b> 37:5 108:14 <b>indicated</b> 115:8 <b>indicates</b> 19:19 <b>individual</b> 14:16 80:22 <b>individuals</b> 80:17 <b>inform</b> 17:5 <b>informal</b> 5:8 <b>information</b> 16:13 29:23 31:6 34:18 <b>initial</b> 93:5,6 <b>inkling</b> 77:1 <b>inordinate</b> 52:5 <b>inquiring</b> 80:18 <b>inquiry</b> 43:21 79:11 <b>instance</b> 78:18 80:15 82:8 98:9 <b>intend</b> 32:16 38:6 54:13 <b>intended</b> 33:5</p>
---	---	--	---	---

<p><b>intending</b> 19:7  <b>intends</b> 19:12              38:9 85:5  <b>intent</b> 32:7  <b>intention</b> 21:17              23:12 53:24  <b>interested</b>              115:16  <b>interests</b> 94:3  <b>Interrogatory</b>              105:23  <b>interrupt</b> 21:19  <b>interruption</b>              21:13  <b>Intervenor</b>              48:19  <b>Intervenors</b> 6:6              41:12,14 43:22              73:5 79:12,19              94:23  <b>Intervenors'</b> 3:8              88:7  <b>intervention</b>              12:19 81:11              82:5  <b>introduce</b> 14:21              97:22  <b>invited</b> 36:16,17  <b>invokes</b> 36:24  <b>invoking</b> 35:19  <b>involve</b> 26:2  <b>involved</b> 40:18              78:8  <b>Irwin</b> 2:9 7:15              7:15 10:20              18:5 58:4,7,10              58:13,17,20,22              59:1,3,8,11,14              59:17,21,24              60:4,7,10,12              60:15,17,19,21              60:23 85:23              100:23 101:6              101:13  <b>issue</b> 14:15</p>	<p>16:21 22:6          25:9,14 27:16          30:12 31:22          32:19 35:2,8          36:6,19 39:17          64:16 76:10,18          76:23 77:15,16          83:8 90:5,8          93:5,12,17          96:9,12 111:3          112:16 114:14  <b>issued</b> 4:11              38:13 81:12              88:15  <b>issues</b> 4:23,24              7:20 11:6 16:6              16:14 17:19,19              17:23 25:20              31:10,14,20,22              32:17 35:13              38:16 41:10              69:16 72:9              83:16,23 84:5              84:6 95:5,8,14              114:13  <b>issuing</b> 91:22  <b>item</b> 7:19</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>J</b> 1:15  <b>JCT</b> 113:23,24  <b>jet</b> 24:7  <b>join</b> 9:1 10:23,24              11:1  <b>Joint</b> 54:2  <b>jointly</b> 8:1  <b>Jones</b> 48:23              57:14 71:23              87:10,24  <b>Josh</b> 6:2  <b>Joshua</b> 2:17  <b>Joyce</b> 2:15 7:7              43:1 78:14  <b>judge</b> 103:1  <b>June</b> 87:8</p>	<p><b>Justice</b> 2:6  <b>Justin</b> 2:15 7:4,6              13:2 34:2              39:21 111:24</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>keep</b> 76:13 83:2              83:18,20 86:2  <b>keeps</b> 103:3  <b>Keith</b> 2:16 6:3  <b>Kenneth</b> 18:24  <b>kind</b> 33:10 51:15              69:1 91:22              103:5 108:22  <b>knew</b> 110:16  <b>know</b> 8:13 10:12              11:8 14:18              17:17,18 18:20              24:3,4 25:23              26:18 28:5,12              28:13,13 32:2              33:9,12,12,15              33:19,23 34:13              34:18 36:10,23              39:15 41:3              43:13 44:14              49:22 51:2,2              51:12,19,21,24              52:3,9 71:6              72:6 76:6 77:6              77:11,18 79:9              79:15 80:11,21              82:3,13 84:14              84:22 87:5              93:8 95:21,23              97:8,13,18              98:6,15 103:18              107:14 109:1              110:18 112:21  <b>knowing</b> 29:9,10              69:2  <b>known</b> 4:7 91:2  <b>knows</b> 38:4              113:21  <b>Kurt</b> 19:14</p>	<p style="text-align: center;"><b>L</b></p> <hr/> <p><b>L</b> 2:8  <b>lack</b> 70:21  <b>Ladewig</b> 54:1,5              56:21,24 59:20              63:5 67:3              70:16  <b>laid</b> 27:7,13 31:1              76:3  <b>Lanzetta</b> 2:17              6:2,2 10:14,15              18:10,12 64:20              64:23 65:2,5,7              91:3,4,7  <b>lasting</b> 76:20  <b>late</b> 112:18  <b>lately</b> 42:23  <b>law</b> 2:9,14 6:15              7:14,16 78:4  <b>Lawrence</b> 54:7              59:23 63:8              71:13 73:17  <b>lawyer</b> 82:21,23              82:24  <b>lawyers</b> 82:21  <b>lays</b> 33:10  <b>LCR</b> 1:21              115:20  <b>lead</b> 32:8 33:21  <b>leads</b> 94:10  <b>leave</b> 11:11  <b>leaving</b> 38:19  <b>leeway</b> 95:12  <b>left</b> 5:16 6:20              8:16 34:17  <b>length</b> 54:15  <b>Leslie</b> 7:13  <b>let's</b> 13:13 18:13              42:6 47:18              50:23 61:7              77:18 85:11              98:19  <b>letter</b> 24:22 25:4              34:4,6,9,15              35:14,19 36:15</p>	<p>36:21,22  <b>letters</b> 114:10  <b>liability</b> 68:10  <b>Licensed</b> 115:3  <b>light's</b> 6:9  <b>limitations</b> 5:1              107:15  <b>limited</b> 17:19              95:4,7 97:3,9  <b>line</b> 22:2  <b>Lisa</b> 19:22  <b>list</b> 13:8 16:21              18:16 21:3              44:6,21 46:18              46:22,22 47:1              47:6 55:7              61:12 64:17,22              68:7 99:21,23              99:24 100:9              107:2 108:14              112:2,20 113:2              113:8,13,14,15  <b>listening</b> 96:1  <b>lists</b> 21:4 104:1              110:7 112:5  <b>little</b> 61:12 78:6              91:20  <b>located</b> 12:17  <b>long</b> 21:23 38:5              43:16 49:22              54:14 83:5              106:17  <b>longer</b> 49:8              51:20 76:20  <b>longest</b> 69:4  <b>look</b> 8:22,24              9:13 11:5,7              12:1 13:15              17:12 33:1              93:2 97:1              98:24  <b>looked</b> 114:9,11  <b>looking</b> 38:15              68:22 99:13  <b>looks</b> 22:22</p>
---	--	---	--	--

31:23 76:15 92:13 <b>lot</b> 24:7 31:8,9 31:13 98:21 <b>luck</b> 39:19 <b>Luckily</b> 99:17 <b>Ludke</b> 7:13,13 58:5 <b>Lynn</b> 18:24	23:7 25:14 27:15 40:8 51:11 80:14,21 80:22 81:21,23 92:19 93:18 94:6 96:17 101:6 102:2 <b>meaning</b> 69:4 <b>means</b> 26:22 51:20 82:6 102:17 <b>meet</b> 114:16 <b>meeting</b> 15:20 77:8 <b>member</b> 97:18 110:1 <b>members</b> 21:10 27:4 30:1 31:13 82:23 87:2 98:23 99:12 107:5 109:6,7,10 <b>memory</b> 49:10 <b>mention</b> 16:4 94:19 <b>mentioned</b> 76:10 87:17 <b>merely</b> 94:15 <b>merry-go-round</b> 29:18 <b>methods</b> 34:19 <b>Michael</b> 1:15 <b>microphone</b> 6:8 <b>middle</b> 14:5 82:2 <b>Middleton</b> 2:2,3 5:18 <b>Mike</b> 7:5 43:20 44:23 49:9,10 94:20 102:4 105:8 <b>Miller</b> 6:21,21 10:2,3 50:1,1 80:15,16 81:20 <b>Millers</b> 42:13 80:23	<b>mind</b> 57:13 89:3 <b>minor</b> 31:21 <b>minutes</b> 46:2,8 46:16 47:21 48:8,14,17,21 49:3 50:4,7,9 50:11,16 51:5 51:8 52:16,19 52:21 53:11 54:15,19,22 55:10,15,19,20 55:23 56:1,4,6 56:10,13,16,18 56:22 57:2,6,9 58:7,10 60:7 61:9,13,14,17 61:24 62:11,14 63:6,9,16,19 64:7 65:3,19 65:22 66:1,7 66:10,20 67:6 67:9,23 69:10 70:7,10,17 71:9,14,24 72:3 74:22 75:1,3,6 <b>missed</b> 13:9 48:3 78:9 <b>missing</b> 57:11 <b>misunderstood</b> 35:18 <b>modify</b> 33:17,17 38:20 <b>moment</b> 7:1 <b>Monday</b> 28:9 84:16 <b>money</b> 88:18 <b>Monroe</b> 1:17 6:7 8:4,21 19:3 25:1 42:16,19 46:24 50:14 74:19 77:19 78:9 86:10,14 88:5,11 91:13 92:1 93:2,7	99:3,8,17 100:4,13,19 101:4 105:20 108:4,8,17 109:16,23 110:3,9 113:7 113:16,23 114:6 <b>Monroe's</b> 11:23 <b>mooted</b> 31:11 <b>morning</b> 4:2 6:17,19 7:5 20:24 29:7 87:4 93:9 <b>motion</b> 26:5,9,11 28:18 29:2,6 37:11 41:2,19 50:22 84:13 108:21 111:17 <b>MOU</b> 15:11,20 16:7,14 83:17 83:23 84:2 <b>MOUs</b> 14:16 15:9,10 17:15 <b>move</b> 13:13 28:24 30:5 37:15 42:7 78:18 83:7 90:18 91:20 93:21 98:19 <b>moving</b> 38:3 63:2 76:14 90:8 <b>muddle</b> 83:4	23:17 32:13 33:14,14 34:18 38:8 39:8 51:3 51:7 55:11 61:16 65:10,15 68:9,13,18 77:9 81:16 95:9 97:24 98:8,10 104:5 105:14 106:9 106:10,19 107:16 108:24 109:2,18,20 <b>needed</b> 92:10 <b>Needleman</b> 2:2 5:15,17,17 13:24 14:6,12 20:15,17,23 21:9 22:7,18 23:11 25:15 26:4,11,21 27:6 29:13 30:9 31:20 39:21 45:12 73:9,13,15,18 73:21,24 74:3 74:5,8,12,15 74:17,20,23 75:1,3,10,13 77:14 79:21 83:13 84:9,16 84:22 85:10 87:4 89:16 96:5,23 111:23 <b>needs</b> 58:8 98:6 <b>negotiations</b> 14:9 15:9 25:13 32:19,20 <b>neither</b> 36:11 115:10 <b>Nelson</b> 19:14 48:2 53:1 <b>never</b> 57:12 76:6 91:16 <b>new</b> 1:1,4,8 2:7
<b>M</b>				
<b>Mackie</b> 50:6 67:22 72:16 74:13 <b>maintain</b> 107:12 <b>making</b> 97:11 <b>Maldonado</b> 2:3 5:19 <b>manner</b> 18:17 40:17 52:7 102:21 <b>Marcia</b> 2:14 6:24 <b>marine</b> 38:16 <b>mark</b> 7:8 19:1 102:5 113:20 <b>marked</b> 15:23 16:5 100:14 102:13 103:8,9 103:12 114:1 <b>marker</b> 95:24 <b>marking</b> 102:7 103:21 105:11 <b>marks</b> 102:9 <b>master</b> 99:24 <b>matter</b> 115:8 <b>matters</b> 5:6 <b>Matthew</b> 6:5 <b>max</b> 22:24 <b>maximum</b> 69:9 69:23 70:17 72:1 <b>McLane</b> 2:2,3 5:18 <b>mean</b> 17:22 23:3				
				<b>N</b>
				<b>N</b> 3:1 <b>N.H</b> 2:6 <b>Nature</b> 42:22 68:5 78:8,13 86:2,9 <b>necessary</b> 37:18 83:17 98:14,15 101:10 <b>need</b> 9:21 21:19

4:5 7:11 95:5,7 96:16 104:11 104:20 106:10 107:17 115:5 115:17 <b>Newington</b> 2:10 5:23 6:16,18 9:8,9 12:6 15:8 15:9,19 42:11 49:5 55:6 74:19 78:3 83:15 85:21 86:5 89:14,20 <b>Newington's</b> 15:24 23:1 112:1 <b>NH</b> 2:14 <b>Nick</b> 19:1 <b>normal</b> 27:12 <b>North</b> 115:17 <b>Northern</b> 96:8 101:1 <b>note</b> 20:11 41:13 66:12 89:9 90:21 96:5 <b>noted</b> 40:22 41:4 111:15 <b>notes</b> 115:7 <b>notice</b> 4:12,15 20:2 77:3 114:4 <b>notify</b> 11:22 25:10 35:11 <b>notion</b> 32:3 <b>number</b> 4:4 5:2 38:22 39:2 52:5 77:2 <b>numerous</b> 17:10	<b>oath</b> 16:10 97:11 <b>object</b> 30:11 42:5 53:6 83:12 84:8,10 89:17 <b>objected</b> 96:11 <b>objection</b> 26:8 49:13 80:9 84:15 85:16 86:18,19 89:10 89:13 <b>obligation</b> 17:5 <b>obviously</b> 8:14 11:18,21,23 14:20 17:8 25:15 28:2,17 30:3 34:18 39:4 78:20 98:4 104:2 107:18 <b>October</b> 88:16 88:19,23 90:6 <b>offer</b> 21:18 <b>offered</b> 47:7 80:1 <b>offers</b> 4:22 <b>office</b> 11:23 <b>Officer</b> 1:15 25:5,11 27:15 28:20 34:5 35:14 36:15 37:10 39:7 40:10,16 43:24 44:4 111:6 <b>official</b> 33:23 94:4 <b>officially</b> 44:4 <b>oftentimes</b> 93:24 94:9 <b>Oh</b> 34:3 93:23 <b>okay</b> 8:14,21 10:20 12:22 16:22 19:6 20:16 28:17 34:3 41:16,23	42:2,6 43:10 44:6,7,13,21 45:17 46:9 47:11 48:18 49:12 51:21 54:13 56:19 57:15 58:4 59:5,18 60:24 60:24 61:5,7 62:1 64:19 65:8 68:4 70:14 71:12 73:4,6 77:22 80:8,9 81:15 82:3 83:6 84:11 89:8 90:16,21 91:1 91:9,12,14 98:18 101:6,13 103:14 106:1,8 108:7 109:13 110:23 <b>once</b> 26:22 85:17 <b>ones</b> 38:23 41:6 <b>ongoing</b> 28:9 32:19 <b>online</b> 8:19,20 <b>opportunity</b> 8:24 12:7 13:2 27:12 30:16 32:12 36:5,6 37:23 94:24 95:13,17 96:20 <b>oppose</b> 40:23 41:12,14 <b>opposed</b> 41:8 52:11 113:14 <b>opposition</b> 42:3 111:15 <b>orally</b> 97:16 <b>order</b> 3:6 11:20 18:14,21 25:8 38:8 42:4,5,8 43:3,21 46:5 46:19,19,21	47:2 50:19,23 68:24 70:22 77:23 78:1,21 78:22 79:11,17 80:2 81:11,13 85:1,8,14,16 86:18 89:14,21 108:22 <b>ordered</b> 115:9 <b>orderly</b> 48:9 53:12 56:11 59:10 62:15 66:15 70:4 <b>organize</b> 100:1 <b>original</b> 18:1 84:2 88:15 <b>Orr</b> 2:8,11 6:16 <b>ought</b> 24:2 <b>overall</b> 79:18,21	56:5 57:11,12 57:15 58:11 59:2 60:9,14 61:10,14 62:9 62:10 63:4,18 65:17 66:9 67:2,15 68:21 69:21 71:10,22 71:22 72:12 73:11 74:2,7 78:23 80:17 81:10 82:23 87:2,10 88:9 90:1,14 91:18 101:7,18 102:1 104:15 111:4,7 <b>Panel's</b> 97:13 <b>panels</b> 22:4 43:19 80:14 <b>paper</b> 98:22 104:14,16 107:16 109:10 109:11,19,21 110:2,2 <b>Paragraph</b> 12:16 <b>part</b> 86:20 104:11 <b>partial</b> 14:18 <b>partially</b> 9:3 <b>participants</b> 81:21 <b>participation</b> 81:3 <b>particular</b> 9:17 12:12 16:21 24:7 38:15 78:23 85:3 97:13 109:7 <b>particularly</b> 18:2 43:18 <b>parties</b> 5:4 8:1,6 8:24 11:12,19 11:19 13:18 14:16 16:16
<hr/> <b>O</b> <hr/> <b>O'Donnell</b> 54:10 57:4 60:1 63:10 67:7 71:15 73:19 90:5 93:8			<hr/> <b>P</b> <hr/> <b>p.m</b> 87:6 88:1 <b>Page</b> 3:1 <b>pages</b> 115:6 <b>Pam</b> 91:9,22 108:19 <b>Pamela</b> 1:17 7:6 <b>panel</b> 18:23 19:2 19:9,10,13,16 19:17,20 21:4 21:5,7,10,10 21:20,22 22:9 22:12 23:3,20 24:4 26:3,17 27:5,8,22 30:1 30:21,24 31:5 31:16,21,23 32:9,12 37:20 39:23 40:5,24 46:3,10,12 48:1,22 49:1 49:21 51:10,13 51:18,24 52:4 52:12,24 53:7 54:3,17 55:14	

20:22 26:23 29:20,22 31:9 33:14 36:5 39:5,12 40:9 40:18 80:5,5 94:3 100:16 103:18 105:11 106:9,18 110:17,24 112:9 113:8 115:12 <b>parties'</b> 29:19 64:17 95:3 <b>parties-only</b> 113:13 <b>parts</b> 10:23,24 <b>party</b> 5:13,14 30:6 43:6 52:8 78:23 79:18 95:13 104:4 111:12 113:3 <b>pass</b> 96:8 101:1 101:22 <b>passed</b> 11:21 104:16 <b>passing</b> 104:14 <b>Patch</b> 2:8 7:10 7:10 8:10 10:8 17:13,14 22:22 23:23 27:17,18 29:3,6 32:16 36:12,13 40:19 40:20 49:2 50:21 51:4,8 51:11,22 52:10 52:16,19,21,23 53:2,4,11,14 53:17,20 54:6 54:9,12,15,18 54:22,24 55:2 55:4 79:2 86:18,19 87:16 87:23 88:8 89:9,24 90:3 101:18 106:22	106:23 107:23 108:7,13,23 109:13 112:15 112:16 113:5 <b>Patch's</b> 41:17 <b>Patricia</b> 60:1 <b>Pelletier</b> 28:10 <b>Pembroke</b> 19:14 48:1 53:1 <b>pending</b> 50:22 84:13 <b>people</b> 21:7,18 22:1,20 24:5 25:23 27:11 30:15,23 32:11 45:23 51:13,14 51:23 92:2,9 103:21 107:10 110:16 112:14 113:9,11 114:1 <b>people's</b> 23:16 49:19 <b>period</b> 23:21 96:2 <b>permission</b> 98:12 <b>person</b> 50:20 82:6,11 102:1 102:15 <b>perspective</b> 16:1 41:23 <b>pertains</b> 17:2 24:1 <b>Peters</b> 2:17 6:3 <b>piece</b> 34:17 104:14,15 109:11 <b>place</b> 38:14 39:9 93:13 <b>plan</b> 15:4 91:15 92:9 99:10 101:9 <b>planned</b> 76:7 <b>Planning</b> 6:18 72:7	<b>Plante</b> 18:24 <b>play</b> 87:19 <b>please</b> 76:23 77:20 94:7,18 104:9 106:3 108:20 110:18 112:7,11 <b>plowing</b> 24:8 <b>plug</b> 93:8 <b>point</b> 8:10 9:3 10:11 14:8,20 15:6 27:22 28:4 36:20 37:1 38:2 74:8 74:18 87:22 91:12 93:22 <b>points</b> 26:4 36:13 <b>portion</b> 41:19 <b>position</b> 10:7,15 10:24 11:1 33:9,15,20 41:15,16,22 44:4 83:22 88:17 <b>possible</b> 5:6 23:14 29:15 40:18 43:12 76:14 93:19,20 <b>possibly</b> 24:5 <b>post-hearing</b> 30:18 <b>potential</b> 14:18 15:20 35:24 86:21 87:17 <b>power</b> 51:7 61:16 <b>practical</b> 105:10 <b>practice</b> 115:4 <b>practiced</b> 34:1 <b>predict</b> 75:22 <b>prefer</b> 30:4 77:10,10 92:24 101:21 104:19 105:6	<b>preference</b> 22:8 23:1 97:14 <b>Prefiled</b> 13:22 15:13 16:5 17:9 50:15 97:8 105:12 112:21 <b>prehearing</b> 1:10 3:2 4:3,9,12,18 4:21 7:18 37:14 46:19 100:9 114:4,15 <b>preliminarily</b> 10:21 <b>premark</b> 102:11 103:12 <b>premarked</b> 104:12,13 109:18 <b>prepare</b> 28:12 28:16 <b>prepared</b> 10:9 28:8 29:8 93:20 105:5 107:21 <b>preparing</b> 31:10 <b>present</b> 18:9,17 32:5,7,8 38:9 52:8 76:1 86:13 96:21 <b>presentation</b> 42:9 64:11 79:21,24 81:1 85:2,14,18 89:22 <b>presented</b> 11:15 33:6 <b>presents</b> 76:10 <b>President</b> 68:11 <b>Presiding</b> 1:15 1:15,15 25:5 25:10 27:15 28:20 34:5 35:14 36:15 37:10 39:7	40:10,16 43:24 44:3 111:6 <b>pressed</b> 20:17 <b>presumably</b> 17:22 108:13 108:24 <b>pretty</b> 12:19 13:4 20:18 26:17 76:8 102:9 <b>printing</b> 103:19 <b>prior</b> 12:11,12 37:2 83:22 96:20 100:8,8 <b>probably</b> 5:10 46:16 47:20 48:8,14 59:4 69:1,9,22 70:18,22 87:21 102:2 107:10 <b>problem</b> 33:6 35:4 38:3 77:1 77:18 <b>problematic</b> 24:17 <b>problems</b> 91:2 96:8 102:5 <b>Procedural</b> 11:20 <b>procedures</b> 5:3 <b>proceed</b> 32:20 40:11 76:15 85:19 <b>proceeding</b> 5:7 5:13 32:10 35:17 36:8 38:18 82:2 113:5 <b>proceeding's</b> 76:20 <b>proceedings</b> 4:11 9:4 14:20 19:24 26:12 28:19 30:15 91:24 98:18
---	--	---	---	--

101:2 <b>process</b> 5:8 17:15 <b>produced</b> 115:13 <b>producing</b> 106:10 <b>Professional</b> 115:2 <b>project</b> 4:8 12:17 23:13 68:13 <b>proof</b> 4:24 79:19 <b>property</b> 48:12 53:15 56:14 59:12 62:18 66:18 70:9 <b>propose</b> 16:10 23:14 <b>proposed</b> 24:18 25:7 33:18 42:4 46:22 <b>proposes</b> 18:22 20:7,9 <b>proposing</b> 19:10 23:9 <b>protective</b> 108:21 <b>provide</b> 16:12 20:2 100:13,16 105:6 107:16 110:2,4 <b>provided</b> 18:15 23:2 31:24 75:15 104:9 109:21 112:8 <b>provides</b> 26:1 27:10 <b>providing</b> 107:2 <b>provision</b> 35:20 <b>provisions</b> 9:7 <b>public</b> 1:7 2:4 3:8 4:5 6:13 7:23 14:24 41:15,18 42:10	43:22 47:12 53:9,22 56:8 57:5 59:6 60:3 62:13 70:1 78:15,20 79:5 79:13,20 85:3 86:17 90:9 94:23 96:17 <b>Public's</b> 56:20 59:19 63:3 67:1 70:15 71:13 73:8 78:19 96:10 110:18 <b>purpose</b> 3:2 4:16 4:19 7:18 <b>purposes</b> 81:1 82:5 <b>push</b> 92:22 <b>pushed</b> 92:17,18 <b>put</b> 22:20 26:7 43:4 46:24 62:21 79:2 89:14 98:9 111:13 <b>puts</b> 28:11 80:5 <b>putting</b> 44:6 111:12 <hr/> <b>Q</b> <hr/> <b>question</b> 8:2,5 21:2 33:16 41:22 42:2 44:24 45:3 64:9 80:11 81:7,24 84:12 84:20 92:4,13 103:15 105:9 106:22 111:3 <b>questioning</b> 21:12 31:14 32:18 71:5 81:9 <b>questions</b> 16:16 26:2,24 27:3	27:11,21 30:24 32:13 37:19 40:4 42:20 45:24 49:15 60:5 63:1,13 63:14 65:12,16 66:4,14,17,23 67:4,13,16,18 67:20 68:1,3 68:16,20 69:1 69:17,20 70:2 70:13 71:17,20 72:14,17,19,21 75:23 80:20 82:12,14 90:13 93:24 95:11 98:16 100:23 110:12,22 <b>quick</b> 36:13 <b>quicker</b> 91:21 <b>quickly</b> 110:14 110:21 <b>Quinlan</b> 18:23 23:18 26:18 46:1,3 51:1 55:8,9 58:6 61:8,9,13 65:10 68:8 <b>quote</b> 37:6 81:10 <hr/> <b>R</b> <hr/> <b>R</b> 115:1 <b>raise</b> 8:7 30:17 32:17 41:12 93:17 111:22 114:13 <b>raised</b> 16:6 25:14 79:16 83:8 93:24 95:5,15 <b>range</b> 31:22 <b>ranges</b> 75:17 <b>Raphael</b> 20:10 45:10,15 47:13 47:15 52:17	55:21 58:18 61:22 65:23 69:11 <b>reach</b> 14:17 <b>reached</b> 11:18 11:19 15:22 <b>read</b> 98:1 <b>reading</b> 81:6 <b>ready</b> 4:20 5:9 98:1 <b>real</b> 110:14 <b>realize</b> 13:10 <b>really</b> 11:7,8,10 24:2 28:13,15 28:15 37:3 38:11 76:7 96:16,19 97:19 97:23 <b>reason</b> 18:20 21:12 51:23 101:24 104:12 108:21 <b>reasonable</b> 9:15 9:23 10:17 20:2 76:8 <b>reasons</b> 44:2 77:2 96:7 <b>recall</b> 37:18 107:9 <b>recalled</b> 39:8,14 40:13 <b>recalls</b> 37:24 <b>receive</b> 7:21 <b>received</b> 24:22 34:9 <b>Recess</b> 75:7 <b>recollection</b> 47:4 96:22 <b>recommend</b> 101:11,15 <b>recommendati...</b> 28:3,14 <b>recommendati...</b> 37:20 38:17 41:8	<b>record</b> 8:11 12:5 12:9 13:17 15:12 16:12 40:22 41:4 52:11 75:5,9 83:21 89:9 100:1 102:9,16 103:4,13 107:9 107:13 <b>records</b> 107:12 <b>red</b> 6:9 <b>redirect</b> 30:5 95:14 <b>redirects</b> 30:8 <b>reference</b> 97:6 <b>referenced</b> 15:14 35:23 <b>refers</b> 12:16 <b>reflect</b> 12:10 <b>refresh</b> 47:4 <b>refresher</b> 45:5 <b>regard</b> 17:20 <b>regarding</b> 15:20 16:14 95:7 98:17 <b>region</b> 48:10 <b>Regis</b> 80:15 <b>Registered</b> 115:2 <b>relate</b> 75:24 <b>related</b> 94:20 115:11 <b>relates</b> 31:21 103:15 <b>relation</b> 30:14 <b>relative</b> 115:14 <b>relatively</b> 112:1 <b>reliability</b> 4:8 51:7 55:12 61:16 65:15 68:18 <b>relief</b> 111:18 <b>rely</b> 39:15 <b>remedy</b> 38:19 <b>remember</b> 94:9 <b>remembering</b>
---	--	---	---	--

<p>37:22  <b>remind</b> 113:10  <b>Reno</b> 2:8,11 6:16  <b>repeat</b> 39:22            94:15  <b>repetition</b> 94:10  <b>report</b> 75:12            89:19 111:15            114:14  <b>reporter</b> 1:21            6:10 115:3,3  <b>Reporting</b> 115:4  <b>reports</b> 19:23  <b>represent</b> 5:14  <b>representative</b>            5:13 24:21            34:11  <b>representing</b>            5:18,22 6:3,16            7:10,15  <b>Reptg</b> 2:2,4,7,9            2:10,12,13,15            2:16  <b>request</b> 7:24 9:2            26:10 37:15            40:10 41:18            105:12  <b>requested</b> 35:9            40:12  <b>requesting</b> 25:6            28:18  <b>requests</b> 11:9            103:20 105:24            106:4 111:14            112:23  <b>require</b> 35:5            90:17,17  <b>required</b> 30:8            35:11  <b>requirement</b>            35:16  <b>resend</b> 113:8  <b>reservations</b>            50:23  <b>reserve</b> 37:17</p>	<p><b>residents</b> 6:22            6:23 10:1 17:3            42:12 49:20            54:17 57:18            60:13 61:1            62:24 64:10,13            67:19 72:12            74:6,11 78:5            80:19 81:18            82:4,18 86:1,6            91:19  <b>Residents'</b> 100:5  <b>resolve</b> 33:13            88:24 89:3  <b>resolved</b> 16:7            17:16,17,23            24:3 32:20            41:10 83:24  <b>resources</b> 15:18            15:19,21 45:6            45:9,14 50:6            66:6  <b>respect</b> 7:23            10:7 12:6            13:22 25:3            28:18 51:1            54:4 55:21            58:18 59:6            62:12 65:14            66:13 69:11            73:10 75:15            76:19 78:17            80:4 83:8            96:10 97:14            100:24  <b>respond</b> 24:24            25:11 26:20,23            34:8 35:4,15            40:3 94:24            95:3,22  <b>responds</b> 27:1  <b>response</b> 9:21            25:12,16 26:19            34:6,14 35:11            36:13 40:7</p>	<p>41:17 43:19            84:7 89:18  <b>responses</b>            100:12 103:21            105:13,15            112:22  <b>responsive</b> 96:18  <b>rest</b> 85:12  <b>results</b> 40:24  <b>return</b> 16:20            25:23 38:17  <b>revenue</b> 48:16            53:19 59:16  <b>reversing</b> 70:22  <b>review</b> 12:7 13:3  <b>reviewed</b> 10:21  <b>reviewing</b> 12:16            13:19  <b>revise</b> 17:10  <b>Revocable</b> 2:15            7:7 43:2 78:14  <b>Richardson</b> 2:15            7:5,6 9:11,12            12:15,23 13:6            17:7,8 21:2            22:11 32:22,23            34:3,14 35:18            36:14 38:10,11            39:11 43:1            46:17 47:5            68:6,9,15,19            68:22 69:6,9            69:13,17,20,22            70:2,5,10,13            70:17 71:1,8            71:11,14,17,20            71:24 72:3,6            72:13,17,19,21            72:23 102:4,22            103:14 104:23            105:8 106:1,3            106:8 112:18            113:19,24            114:8  <b>Richardson's</b></p>	<p>36:24  <b>right</b> 4:1 8:19            9:14,17,18            11:3 12:14            16:20 18:13,15            20:19 21:1            22:17 26:15,21            28:23 30:20            32:4,5 35:22            37:18 40:1            42:6 49:1,24            57:15 61:7            63:2 64:20            68:6 73:2,13            74:20 76:3,24            79:3,5,6,24            80:8,10,24            81:8 83:7            84:12 85:22            88:17 93:21,23            96:14 99:2,8            102:22 106:1            106:11 114:12  <b>right-of-way</b>            12:18  <b>road</b> 96:3  <b>Robert</b> 19:10,18  <b>roll</b> 90:23  <b>room</b> 5:11 22:19            43:6 83:12            107:10,15            113:3,4  <b>rule</b> 44:9 79:7,10            79:11  <b>rules</b> 29:2 43:21            43:23 44:3,12            79:14 85:7            112:11  <b>rulings</b> 37:2  <b>run</b> 93:14            101:21  <b>running</b> 77:17  <hr/> <b>S</b>  <hr/> <b>S</b> 1:4 2:11</p>	<p><b>safe</b> 51:16 58:14  <b>safety</b> 53:10 56:8            59:6 62:13  <b>Sandberg</b> 50:6            67:22 72:16            74:13  <b>Sarah</b> 19:14  <b>saw</b> 8:11,16            82:17  <b>saying</b> 39:21            69:2 71:7            95:21 105:9  <b>says</b> 21:3,9 28:5            28:10 30:22            33:16 38:15            79:11,17 80:1  <b>scanning</b> 91:10  <b>scenario</b> 36:11  <b>schedule</b> 3:6            27:7 33:11            37:17 38:12            43:11 77:16            88:15  <b>scheduled</b> 4:10            20:5 26:16            90:7 92:7 93:9            114:15  <b>scheduling</b>            38:12 77:18            86:22 90:4            91:2,11  <b>Schultz</b> 48:23            57:14 87:23  <b>screens</b> 101:9  <b>Seacoast</b> 4:8  <b>SEC</b> 1:6,7,17  <b>second</b> 21:14            32:4 36:20            80:6 85:12  <b>secret</b> 14:8  <b>securing</b> 92:9  <b>see</b> 4:17 10:13            45:1 76:18,22            77:16 93:2,12            104:17 109:18</p>
--	---	---	---	--

<p><b>seeing</b> 41:13 80:8</p> <p><b>seeking</b> 34:7</p> <p><b>seen</b> 8:6,9,17 13:4 69:13 81:13</p> <p><b>Selig</b> 48:20 57:7 60:5 63:14 67:11 71:18 73:22 87:1,6 88:1,10</p> <p><b>send</b> 108:19 113:7</p> <p><b>sending</b> 113:11</p> <p><b>sense</b> 11:4 32:10 33:21</p> <p><b>sent</b> 20:21 35:14 87:7 109:1 112:23 113:24</p> <p><b>separate</b> 64:12</p> <p><b>September</b> 19:9 19:12,17,22 20:6,7,9 21:14 24:23,24 25:1 25:17 26:1,20 27:9 34:10 39:1,2,24 76:5 87:2,7,8,11 88:1,6,13 90:12 91:8,16</p> <p><b>serious</b> 32:17</p> <p><b>served</b> 72:7</p> <p><b>service</b> 1:8 4:5 13:8 108:14 113:2,8,15</p> <p><b>Services</b> 14:10</p> <p><b>set</b> 4:15 105:13</p> <p><b>settlement</b> 4:22</p> <p><b>settlements</b> 3:4 7:20 14:17</p> <p><b>setup</b> 99:7 100:24</p> <p><b>Shapiro</b> 19:22 48:15 53:18 56:17 59:15</p>	<p>62:23 66:21 70:11</p> <p><b>share</b> 94:3</p> <p><b>sharing</b> 101:10</p> <p><b>sheet</b> 44:17 46:24 115:8</p> <p><b>Shellfish</b> 64:5 72:22</p> <p><b>short</b> 97:14</p> <p><b>Shorthand</b> 115:4</p> <p><b>show</b> 101:24</p> <p><b>sign</b> 14:16</p> <p><b>significant</b> 17:24 89:6</p> <p><b>significantly</b> 27:24</p> <p><b>signs</b> 96:3</p> <p><b>silence</b> 12:24</p> <p><b>similar</b> 94:3</p> <p><b>simplification</b> 4:23</p> <p><b>simply</b> 16:12</p> <p><b>SIMPSON</b> 47:23 48:8 49:6</p> <p><b>sir</b> 6:4 94:21</p> <p><b>Site</b> 1:2,9 4:3,7</p> <p><b>sitting</b> 96:1 98:23 99:14</p> <p><b>situation</b> 112:12</p> <p><b>six</b> 22:23 51:13 52:5,5,11 76:1 101:18,21 102:6,7,17</p> <p><b>skipped</b> 10:18</p> <p><b>skipping</b> 86:3</p> <p><b>smooth</b> 93:19</p> <p><b>smoother</b> 93:14 101:22</p> <p><b>so-and-so</b> 95:23</p> <p><b>Society</b> 42:14 86:7</p> <p><b>somebody</b> 57:11 81:24 82:9,10</p>	<p><b>somebody's</b> 102:13 104:6</p> <p><b>somewhat</b> 25:18 30:2</p> <p><b>soon</b> 76:24 77:15 77:16</p> <p><b>sooner</b> 77:4,17 84:17</p> <p><b>sorry</b> 10:18,19 22:23 23:8 45:1 57:16 62:11 66:11 74:20 78:11</p> <p><b>sort</b> 11:5 25:19 29:17,17 43:3 95:15 96:3</p> <p><b>sorts</b> 27:11</p> <p><b>sounded</b> 111:21</p> <p><b>sounds</b> 33:23</p> <p><b>speak</b> 61:2 81:22 97:17 105:2 110:13</p> <p><b>specialists</b> 45:8</p> <p><b>specific</b> 111:14</p> <p><b>specifically</b> 96:23 111:17</p> <p><b>specifies</b> 79:8</p> <p><b>spend</b> 31:13 38:6 73:12</p> <p><b>spending</b> 31:9</p> <p><b>spoke</b> 111:4</p> <p><b>spoken</b> 33:7</p> <p><b>spokesperson</b> 9:24 81:17,20 82:16 83:4</p> <p><b>Spokespersons</b> 81:16</p> <p><b>stability</b> 51:7 55:12 58:9 61:16 65:15 68:18</p> <p><b>staff</b> 44:5 77:6</p> <p><b>stage</b> 35:16</p> <p><b>stand</b> 22:24</p> <p><b>standard</b> 5:2</p>	<p>98:16</p> <p><b>Starr</b> 2:17 6:3</p> <p><b>start</b> 5:15 9:4 22:9 23:15 26:7 45:18 47:18 58:5 61:8 73:8 78:2 82:22,24 88:6 88:8,9 90:1,23</p> <p><b>started</b> 89:23</p> <p><b>starting</b> 43:5 55:7</p> <p><b>starts</b> 95:10</p> <p><b>State</b> 1:1 115:4</p> <p><b>stated</b> 42:3</p> <p><b>statement</b> 35:20 37:16</p> <p><b>statements</b> 84:1</p> <p><b>status</b> 91:23 112:4</p> <p><b>statute</b> 4:21 28:5 32:24 33:10 35:5,6 36:4,23 36:24</p> <p><b>statutorily</b> 35:10</p> <p><b>statutory</b> 34:15 34:22,24 35:16 36:22 37:4</p> <p><b>stenographer</b> 103:2 109:2,15</p> <p><b>stenographic</b> 115:7</p> <p><b>stipulate</b> 12:3,10 13:5</p> <p><b>stipulated</b> 38:13</p> <p><b>stipulation</b> 7:21 7:22,24 8:7 9:1 9:8 10:21,23 11:6,15 12:8 12:13 39:12</p> <p><b>stipulations</b> 3:4 4:23 7:20 9:23 11:17,22 12:3</p> <p><b>stop</b> 43:11</p> <p><b>straight</b> 24:19</p>	<p><b>straightened</b> 99:18</p> <p><b>strategy</b> 94:8</p> <p><b>Strater</b> 19:2</p> <p><b>Street</b> 1:4 99:4,5 100:24 114:17</p> <p><b>strongly</b> 11:13 31:15</p> <p><b>structured</b> 30:20</p> <p><b>stuck</b> 33:18</p> <p><b>stuff</b> 29:21 107:16</p> <p><b>styled</b> 7:24</p> <p><b>Subcommittee</b> 35:1 97:18 98:22 104:17 110:1</p> <p><b>subject</b> 9:6 29:1 34:12 40:13</p> <p><b>submarine</b> 25:19</p> <p><b>submit</b> 97:22 109:16,18 110:7</p> <p><b>submitted</b> 28:6</p> <p><b>subpoena</b> 33:22 36:15,19</p> <p><b>subset</b> 110:19</p> <p><b>substituting</b> 16:2</p> <p><b>substitutions</b> 13:17,21 16:24</p> <p><b>successful</b> 14:19</p> <p><b>sufficient</b> 100:8</p> <p><b>suggest</b> 37:14 91:19</p> <p><b>suggested</b> 38:24 38:24</p> <p><b>summarize</b> 97:7 98:11</p> <p><b>summarizing</b> 97:7</p> <p><b>summary</b> 97:15 97:24</p> <p><b>Superior</b> 102:23 107:15</p>
--	--	---	---	--

<b>superseded</b> 47:8	<b>table</b> 5:16	26:15 30:2	65:13,20 66:8	86:24 87:4
<b>supplement</b> 15:11	<b>take</b> 8:22 11:7 21:24 22:4	36:14 38:20 87:10 107:23	68:4 81:14 83:6 84:11	88:20 91:13,14 91:15 92:12
<b>supplemental</b> 15:15 18:1 28:7 95:1,3,6 100:11 112:22	24:12 45:21 48:18 49:12 50:24 75:4 99:22 112:12 113:16	111:3 <b>testified</b> 39:20 88:12 94:17 <b>testify</b> 25:18 31:5 40:24 49:21 67:12 68:12 69:13	89:8 90:20 91:1,9 98:3 100:21,23 101:13 106:8 106:23 108:7 110:10 111:10 113:18 114:17	96:8,17,23 97:20 98:8,10 99:6 102:8 103:21 105:10 105:19 111:23 112:2 113:21
<b>support</b> 28:23 31:4 32:15 37:1	<b>taken</b> 41:21 44:4 75:7	49:21 67:12 68:12 69:13 <b>testifying</b> 22:12 31:16 45:5 47:9	110:10 111:10 113:18 114:17 <b>thing</b> 13:4 15:14 16:3 24:10 29:3 33:13 40:6 47:18 50:20 51:11 89:2 94:16 96:24 98:7	<b>thinking</b> 14:12 14:13 102:22 <b>Thomas</b> 2:9 <b>thought</b> 8:15 35:19 57:13 <b>three</b> 51:14 52:2 52:2,2 114:10
<b>suppose</b> 26:19 101:23	<b>takes</b> 72:9	<b>testimonies</b> 13:16 16:22 100:10,11	96:24 98:7 <b>things</b> 8:15 12:2 14:14 21:17,24 30:20 32:23 43:12,15,17 76:6,13,15 90:7,23 91:20 93:14,18 96:24 101:15,17 104:19 105:2 105:11	<b>throw</b> 46:6 85:15 <b>throwing</b> 51:12 <b>thrown</b> 51:15 <b>thumb</b> 99:9,20 106:16 107:4 110:14
<b>supposed</b> 86:20 112:13	<b>talk</b> 23:12 26:6 50:21 64:14,16 77:21 86:21 93:16 113:5	<b>testimony</b> 3:5 5:1 13:14,22 14:6,22 15:3,6 15:13,15 16:5 16:6,8,9,11,19 16:24 17:9,11 17:21,22 18:1 18:8 23:2,5,19 24:7 28:6,7 29:24 31:24 47:7 49:14 50:15 51:13 52:1 53:5 54:2 75:19 83:11,16 83:18 94:11,18 95:1,4,22 96:16 97:8,11 97:24 98:1,12 102:14 103:19 104:6 105:12 106:21 112:21	105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>Supreme</b> 107:11	<b>talked</b> 70:19 84:18	<b>tax</b> 48:16 53:19 59:16	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>throw</b> 46:6 85:15 <b>throwing</b> 51:12 <b>thrown</b> 51:15 <b>thumb</b> 99:9,20 106:16 107:4 110:14
<b>sure</b> 6:8 13:4 23:23 29:5,14 39:6 40:15 45:10,12 49:24 65:1 81:4 83:13 84:21 85:12 92:1 96:15 103:6 104:9 108:5 109:5,10 110:20 112:4,8	<b>talking</b> 22:9 23:15 26:12,14 26:15 38:12 82:22,24 96:1 104:17 106:24	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>surprise</b> 105:1	<b>telegraphing</b> 95:21	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>surprisingly</b> 105:3	<b>tell</b> 14:2 47:3 97:4	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>Susan</b> 2:11 6:14 6:15 31:2	<b>telling</b> 43:10	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>suspect</b> 10:23	<b>ten</b> 34:8,24 35:15 36:22 48:21 49:6 50:11,16 52:4 52:21 53:11,17 55:9 56:1 57:17 58:7,17 59:24 60:12,15 60:21 61:9,13 66:20 67:6 71:14	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>Sutton</b> 115:17	<b>ten-day</b> 34:14,21	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>Swanson</b> 19:15 48:2 53:3	<b>ten-minute</b> 75:5	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>swear</b> 16:9 97:21	<b>terms</b> 24:17	<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>swearing</b> 97:10		<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>switch</b> 89:14		<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>system</b> 51:6 55:11 58:8 61:15 65:14 68:17		<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<hr/> <b>T</b> <hr/>		<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8
<b>T</b> 35:6 115:1,1		<b>taxes</b> 66:22 70:12	104:19 105:2 105:11 <b>think</b> 5:10 12:18 13:7,18 21:22 23:6,24 24:17 24:18 25:14 27:18 28:10,15 29:11 31:3,12 32:4 33:2,5 35:21 36:1,12 36:24 37:1,4,8 37:13 40:8 41:3 44:2,13 50:4 51:21 56:24 61:20 68:23 70:18 71:24 72:8 73:5 79:7 81:19 84:9 85:5,7 86:20	<b>time</b> 10:11 11:20 12:11,12 20:18 21:18,20 22:3 22:14 23:17,21 23:23 24:23 27:19,22 31:9 31:14 34:15,24 36:9 40:14 43:15 45:21 51:2,21 65:9 72:24 73:4,11 75:19 91:12 96:2 100:8

38:13 39:13,17 40:21 43:13 50:15 61:6 82:17 86:21 89:4 106:12 107:2 112:6 113:6 <b>today's</b> 4:9 100:9 <b>told</b> 10:4 13:1 42:19 47:12 50:12 113:21 <b>Tom</b> 7:15 100:22 <b>top</b> 58:5 <b>topic</b> 94:20 <b>totally</b> 9:2 99:17 <b>touch</b> 112:7 <b>tough</b> 39:19 <b>tourism</b> 48:10 53:13 56:11 59:9 62:16 66:16 <b>town</b> 2:7,10 6:16 7:11 12:6 15:8 71:19 78:2,3 84:3 85:20,20 86:5 <b>Town's</b> 83:22 <b>towns</b> 71:1,3 <b>transcript</b> 115:9 115:13 <b>transcription</b> 115:6 <b>tried</b> 75:14 96:18,21 <b>true</b> 88:14 115:6 <b>Trust</b> 2:15 7:8 43:2 78:15 86:2,13 <b>try</b> 22:2 25:8 37:23 40:17 47:3 76:13 90:10 92:16 102:20 <b>trying</b> 9:13	23:13 47:8 49:18 82:2 83:2 88:24 89:2,3 <b>turn</b> 23:20 25:22 44:18 55:6 61:1 64:21 65:9 66:24 73:7 82:13 99:23 <b>turning</b> 67:10 68:6 70:14 82:18 <b>turns</b> 98:5 <b>two</b> 8:1 11:19 15:10 32:23 36:13 41:6 46:11 49:9 51:17 52:12 53:4,7 77:1 100:23 111:24 112:21,22 <b>type</b> 38:5 <b>types</b> 13:21 105:2 <hr/> <b>U</b> <hr/> <b>ultimate</b> 33:4 <b>ultimately</b> 27:15 28:14 107:7 <b>unavailable</b> 87:6 87:11 88:2 <b>unclear</b> 102:10 <b>Underground</b> 55:24 <b>understand</b> 4:18 21:8,22,23 25:18 28:22 40:7,9 43:14 43:17 71:7 75:10 77:13,23 81:16 82:22,24 87:21 96:6 101:1 104:10 104:21,24	<b>understanding</b> 45:22 50:21,22 83:22 101:5 112:17 <b>understood</b> 17:7 27:6 30:9 37:22 39:11 77:22 104:23 105:8 <b>unfair</b> 29:11 <b>Unfortunately</b> 34:21 <b>UNH</b> 17:14 40:23 89:11 <b>unheard</b> 33:24 <b>University</b> 2:7 7:11 <b>unknown</b> 72:23 <b>unquote</b> 37:6 <b>unusual</b> 30:13 96:7 <b>unwilling</b> 12:10 <b>updated</b> 110:7 <b>updates</b> 91:23 <b>Upton</b> 7:7 <b>urge</b> 31:15 106:3 <b>use</b> 77:8 94:8 101:2 115:7 <b>usually</b> 105:3 <hr/> <b>V</b> <hr/> <b>vacation</b> 88:12 88:14 <b>value</b> 56:15 <b>values</b> 48:13 53:16 59:12 62:18 66:19 70:9 <b>various</b> 38:6 <b>Varney</b> 19:18,19 19:21 48:9 53:12 56:12 59:9 62:15 66:15 70:3 <b>verbal</b> 89:18	<b>version</b> 100:7 <b>versions</b> 112:21 <b>Vicky</b> 45:12 <b>Victoria</b> 19:8 45:6 <b>view</b> 94:4 <b>vigorous</b> 17:13 <b>visual</b> 45:15 52:17 54:8 55:22 58:19 61:22 65:23 69:12 <b>Vivian</b> 6:21 81:19 <b>voluminous</b> 110:4 <hr/> <b>W</b> <hr/> <b>Wadleigh</b> 2:17 6:2 <b>wait</b> 24:3 <b>waiting</b> 25:9 <b>waive</b> 37:4 <b>wall</b> 19:1 24:5,6 25:18 51:17 52:2 83:3 <b>Wall's</b> 29:24 <b>want</b> 8:3,10 11:3 12:1,9,20,23 23:12,24 24:8 24:11 32:8 49:9 52:4 70:6 70:20 77:22 79:5 82:1 84:4 89:12 92:11 94:19 96:5,13 101:22,24 103:9 105:1 107:3,7,17 109:15 110:1 110:15,17 111:16,17 112:12 <b>wanted</b> 81:4 83:20,24	110:16 <b>wants</b> 32:6 93:18 <b>wasn't</b> 30:9 36:21 44:8 96:12,16,19 114:6,7 <b>way</b> 20:4 26:16 27:13 30:12,20 32:6,7 33:13 40:11 42:14 44:14 50:18 52:1 53:5 76:3 76:15 79:15 81:11 92:17 95:18 102:19 108:15 114:1 <b>we'll</b> 16:20 18:19 18:21 23:16 44:20 45:19 49:12,17 62:21 64:14,16 69:5 73:4 75:5,6,8 76:12 84:9 85:13 89:19 92:18 99:3,5 109:10 110:2 114:14 <b>we're</b> 4:1,2,14 9:21 10:15 17:17,21 22:2 22:19 23:13 25:16 28:12,20 28:24 29:1 33:5,9,18 34:17 35:24 37:16 38:18,19 44:18 46:23 49:18 53:22 55:5 61:1,20 64:20 68:22,23 70:22 75:4 77:7 78:2 81:8 83:5 89:4,4,7 92:3,13 93:21
--	--	--	---	---

99:1,1,22,22 99:23 102:11 104:13 107:2 107:13 109:5 112:6,13 114:13 <b>we've</b> 20:13 25:12 27:13 29:21 33:7 35:3,4 39:4 50:12 52:6 74:10 79:15 100:2 109:1 111:23 <b>Weathersby</b> 29:2 98:12 <b>website</b> 105:17 <b>week</b> 4:11 5:10 29:1 95:2 <b>Weinrieb</b> 16:17 49:11 83:9 <b>Weinrieb's</b> 16:4 16:11 83:11,16 <b>went</b> 34:4 <b>weren't</b> 10:5 86:15 104:12 114:8 <b>whatnot</b> 37:24 <b>whichever</b> 109:6 <b>Whitney</b> 53:24 54:4 56:21 59:19 63:4 67:2 70:15 <b>Whitney/Lade...</b> 73:11 <b>Widell</b> 20:8 45:9 45:13 47:16,18 47:22 52:22 56:2 58:23 62:5 66:5 69:18 <b>William</b> 18:23 19:1 <b>willing</b> 20:1 <b>Wind</b> 96:9,15	<b>wish</b> 18:17 <b>wishes</b> 52:8 <b>withdrawal</b> 17:20 <b>withdrawals</b> 3:5 13:14,20 15:2 17:1 <b>withdrawing</b> 16:2 17:21 18:7 <b>witness</b> 3:6 20:6 22:20,24 23:24 30:4 33:7,15 38:17 39:8,13 43:8,16 46:20 57:15 63:7 65:14 70:18 71:4 73:16 77:4 78:7 82:12 87:20 93:15 97:10,12 97:15,21 98:9 98:11 101:7 102:5,6,9,24 103:24 <b>witness's</b> 103:3 <b>witnesses</b> 3:9 5:2 5:5 17:10 18:2 18:5,9,14,18 19:2 20:5 22:16 24:12 26:3 27:14 28:2 29:8 31:14 32:6 37:19 38:6,9 39:1,4 40:12 41:6,24 42:21 43:5 44:21 45:4,5,8,20 47:2,11 48:19 49:24 52:8 56:20,21 59:19 63:3,23 64:12 67:1,22 70:15 70:21,22 71:3	72:16 73:8 75:16,21,24 76:3,12,19,22 78:1,19,21 79:22 80:7 82:7 85:2,9,19 85:21 86:11,15 86:22 87:15 88:7 90:10 92:6,10 93:12 94:2,22 95:2 97:6 101:10 102:7 107:22 109:3 111:12 <b>witnesses'</b> 22:4 <b>wonder</b> 33:20 <b>wondering</b> 44:3 <b>word</b> 31:17 70:21 <b>words</b> 94:16 <b>work</b> 69:5 77:12 80:21 93:10 100:18,20 101:17 103:22 110:1 <b>worked</b> 45:7 52:6 <b>working</b> 7:13 17:15 44:17 46:18 <b>wouldn't</b> 39:22 40:14 <b>write</b> 40:21 89:19 <b>writing</b> 34:9 <b>written</b> 84:14 <b>wrong</b> 37:9 99:17 <b>wrote</b> 70:5,6 <hr/> <b>X</b> <hr/> <b>X</b> 3:1 <hr/> <b>Y</b> <hr/> <b>Yeah</b> 13:6 <b>years</b> 89:1	<b>yesterday</b> 26:6 <hr/> <b>Z</b> <hr/> <b>0</b> <hr/> <b>1</b> <hr/> <b>1</b> 24:23 <b>1.5</b> 73:21 74:3,5 <b>10</b> 35:12 59:11 92:6 <b>10:29</b> 75:7 <b>100</b> 102:18 <b>100.1</b> 102:19 <b>100.2</b> 102:19 <b>10th</b> 4:13 88:23 <b>11</b> 75:6 <b>11:04</b> 75:7 <b>11:13</b> 114:18 <b>12</b> 12:16 <b>13</b> 3:5 <b>14</b> 1:21 <b>15</b> 46:2,8 49:6 51:8 52:16 54:15,18,22 57:17,23 58:1 58:20 59:11 60:15,23 62:17 63:6,9,16,19 63:21 64:4 65:19 66:1 67:23 70:10 71:24 74:20 <b>162-H:7</b> 34:16 <b>17</b> 76:5 87:11 88:1 <b>17th</b> 19:9 27:9 39:24 40:2 90:6 <b>18</b> 3:7 76:5 <b>18th</b> 19:12,19,21 87:7 88:2 90:14 <hr/> <b>2</b> <hr/> <b>2</b> 87:6 88:1	<b>20</b> 20:6 46:2 47:20 49:3 50:4,7 52:23 53:14 54:9,12 56:16,22 57:23 58:1 59:21 60:7,10,23 67:9 75:6 76:5 87:8 88:2 108:24 <b>2015-04</b> 1:7 4:4 <b>2016</b> 81:15 <b>2018</b> 1:3 4:13 115:18 <b>202.20</b> 44:10 79:13 <b>20th</b> 19:17,22 87:13 88:3 90:12 <b>21</b> 1:4 20:7 76:5 87:8 88:1 91:8 <b>21st</b> 87:11 88:2 91:5 <b>22</b> 1:3 <b>22nd</b> 88:24 <b>24</b> 20:9 76:6 87:9 <b>24th</b> 20:15 39:2 39:3 76:9 81:15 88:3,6 88:12 89:24 91:5,8,16,21 <b>25</b> 51:5 <b>28th</b> 115:17 <b>29</b> 91:7 <b>29th</b> 18:22 22:6 22:8 23:7,8 24:11 29:7 76:4 87:17,21 87:23 91:5 111:7 114:16 <hr/> <b>3</b> <hr/> <b>30</b> 47:23 48:14 50:4 52:19
--	---	--	---	---

55:13,23 56:16	<b>9:08</b> 1:3			
56:22 57:2	<b>90</b> 58:13,13 59:3			
59:21 60:10	<b>98</b> 3:10			
61:14 66:7,10				
70:6,17 71:9				
72:3 75:1,3				
91:7				
<b>30th</b> 19:7 21:16				
23:4,10 24:11				
76:5 87:17,21				
87:24 91:5				
111:7				
<b>34</b> 75:17				
<b>35</b> 75:18				
<hr/>				
<b>4</b>				
<hr/>				
<b>4</b> 3:3				
<b>40</b> 47:23 48:14				
<b>45</b> 54:6 55:13,15				
56:4,6,13 57:6				
61:24 62:11,14				
65:3				
<b>49</b> 114:16				
<hr/>				
<b>5</b>				
<hr/>				
<b>5</b> 69:9				
<hr/>				
<b>6</b>				
<hr/>				
<b>6</b> 22:22,22 51:23				
<b>60</b> 58:13 59:4				
<hr/>				
<b>7</b>				
<hr/>				
<b>7</b> 3:4 19:2 21:10				
22:20,22 75:18				
76:4				
<b>73</b> 3:9				
<b>7th</b> 24:24 25:1				
25:17 26:1,20				
34:10				
<hr/>				
<b>8</b>				
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<b>8</b> 107:4				
<hr/>				
<b>9</b>				
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<b>9</b> 107:4 114:16				
<b>9-04-18</b> 1:6				